

*Malb
McKeech
29th. 29*

THE
PRETENSIONS
OF THE
Most Christian King
TO THE
Dominions & Territories
OF
The Most Serene CONFEDERATES,
On the One Side :
And on the Other, The
CLAIMS
OF
The Most Serene CONFEDERATES
TO
FRANCE, and the Conquer'd Countries,
Truly Stated.
With Exact ENQUIRIES into the Rights
of Every One in Particular.

From the French Original.

*[Affording great Light into the Present Differences of Europe, and Proper
to be Bound up with The Historical and Political Mercury.]*

L O N D O N, Printed for Henry Rhodes, at the Star, the
Corner of Bride-lane, Fleet-street, 1695.

THE
 PRETENSIONS
 OF THE
~~Most Christian King~~
 TO THE
 Dominions & Territories
 OF
Imprimatur The Most Serene

Decemb. 12.

1694 And on the Other The

EDWARD COOKE
 S M S

OF
 The Most Serene CONFEDERATES
 TO

~~FRANCE, and the Conquer'd Countries,~~
 Truly Secured.

With Exact ENLIGHTENED into the Rights
 of Every One in Christian

From the French Original.
 [Offering great Light into the Present Dispute of Liberty and Property
 to be Brought on with The History and Political Motives]

L O N D O N. Printed for James Knapton, at the Star, the
 Corner of Broad-street, West-minster, 1695.

A T A B L E OF THE MATTERS contain'd in this Treatise.

Jones 12.6.20
English-9.2.20
15429 McLeach

	Page		Page
A Short Introduction to the present Treatise, being a strict Enquiry into the Pretensions of the King of France to the Territories and Dominions of the Most Serene Confederate in particular, <i>misq</i>	1	Pretensions of the Kingdom of France to Navarr,	30
Pretensions of the Crown of France to the House of Austria: and first, to the Empire,	10	Enquiries, &c.	31
Enquiries into the Pretensions of France to the Empire,	12	Pretensions of the King of France to the Kingdom of Majorca,	33
Pretensions of the King of France to Castille,	14	Enquiries, &c.	34
Enquiries into the Pretensions of France to the Crown of Castille,	16	Pretensions of the King of France to Sardigna,	36
Pretensions of the King of France to the Kingdom of Arragon,	23	Enquiries, &c.	ibid.
Enquiries into the Pretensions, &c.	24	Pretensions of the King of France to Milanois,	37
Pretensions of the King of France to Catalogna,	26	Enquiries, &c.	38
Enquiries, &c.	ibid.	Pretensions of the King of France to the Dutchy of Luxemburgh, and the Earldom of Chini,	39
Pretensions of the King of France to Roussillon,	27	Enquiries, &c.	ibid.
Enquiries, &c.	ibid.	Ancient Pretensions of the King of France to Flanders, the Four Dutchies and Signories belonging to it,	40
Pretensions of the King of France to the Kingdoms of Naples and Sicily,	28	Enquiries, &c.	41
Enquiries, &c.	29	New Pretensions of the King of France in Right of the deceased Queen, his Wife, to the Dutchy of Brabant, Malines, Antwerp, the Upper Guelders, Namur, Limburg, Dalen, and other Places beyond the Meuse, Hainault, Artois, Cambray, Burgundy, and Luxemburgh,	42
		Enquiries	A 2

The TABLE, &c.

	Page
<i>Enquiries, &c.</i>	44
<i>The Contract of Marriage of the Most Christian King, Lewis XIV. and the Infanta, Dona Maria Teresa, the Most Catholick King's Daughter,</i>	50
<i>The Ratification of His Most Christian Majesty,</i>	58
<i>The Extract of the Act of Renunciation of the Queen of France, ibid.</i>	
<i>Pretensions of the King of France to the Old Town of Gaunt, with all its Dependencies, the City and Castellanship of Alost, the City of Gramont, &c.</i>	61
<i>Enquiries, &c.</i>	62
<i>Pretensions of the King of France to the Republick of Genoa,</i>	63
<i>Enquiries, &c.</i>	65
<i>Pretensions of the King of France to the Dukedom of Savoy, Principality of Piemont, and Earldom of Nice,</i>	66
<i>Enquiries, &c.</i>	67
<i>Pretensions of the King of France to Lorrain,</i>	68
<i>Enquiries, &c.</i>	69
<i>Pretensions of the King of France to the Principality of Orange,</i>	71
<i>Enquiries, &c.</i>	ibid.
<i>Pretensions of France to Avignon and Venessin,</i>	72
<i>Pretensions of France to the Exarchy of Ravenna, and the Country of Pentapolis,</i>	74
<i>Enquiries, &c.</i>	75
<i>Pretensions of France to the County of Nice,</i>	76
<i>Enquiries, &c.</i>	ibid.
<i>Pretensions of France to the Dutchy of Deux Ponts, Montbelliard, Stralburgh, and Casal,</i>	77
<i>Enquiries, &c.</i>	78

	Page
<i>Pretensions of the Most Serene Confederate Princes to France, and the Conquer'd Countries: and first, Of the Pretensions of the Emperor to France,</i>	80
<i>Enquiries into the Pretensions of the Empire to France,</i>	82
<i>Pretensions of the Emperor to the City of Metz, Toul, and Verdun, and the Just Interest these Cities have to their own Liberties,</i>	83
<i>Enquiries, &c.</i>	84
<i>Pretensions of the Emperor to Provence, the Dauphinate, and Languedoc,</i>	85
<i>Enquiries, &c.</i>	86
<i>Pretensions of the King of Spain to Alsatia,</i>	87
<i>Enquiries, &c.</i>	88
<i>Pretensions of the King of Spain to the Datchy of Burgundy,</i>	ibid.
<i>Enquiries, &c.</i>	89
<i>Pretensions of Spain to Franche-Comté,</i>	90
<i>Pretensions of Spain to Breisgau,</i>	ibid.
<i>Enquiries, &c.</i>	91
<i>Pretensions of the King of England to France,</i>	95
<i>Enquiries, &c.</i>	97
<i>Pretensions of the King of England to Normandy,</i>	98
<i>Enquiries, &c.</i>	ibid.
<i>Pretensions of the King of England to Guienne, Poitou, and Languedoc,</i>	ibid.
<i>Enquiries into the King of England's Pretensions to Guienne, Poitou, and Languedoc,</i>	99

THE

T H E
Claims and Pretensions
 OF THE
French King, &c.

THOUGH there be nothing of positive Certainty known, in reference to the Time when States and Kingdoms Began, yet we make no scruple to believe that they were as Ancient as the World. *Adam* was a King over his Children. *Cain*, and his other Sons, were Kings also over theirs. And after the Deluge, the Fathers, and the Eldest Sons, most assuredly govern'd their Families with an Authority little inferiour to that which now-a-days Princes assume over us : with this difference, however, that as they were Natural Fathers, they were likewise sensible of those Real Affections which alway enclin'd 'em to Mildness and Moderation, and which induc'd 'em never to employ themselves but in the laudable Care of procuring the Welfare and Repose of those over whom either Nature or Fortune had given the Authority of Parents or Masters. In that, far remote from the Politicks of the greatest part of Sovereigns not only now-a-days, but of distant Ages who persuade Themselves, That the People were Created, and the Throne Erected for them. A Maxim so much the more dangerous, in regard that the Courts of Princes are always crouded with Flatterers, who, without ceasing, instill it into the Ears of Princes, as most certainly believing that it is the most assured Means to insinuate themselves into their Favour. From thence come Taxes, Impositions, Vexations, Acts of Injustice, and Wars.

That after the Deluge, Fathers and the Eldest Sons were Kings in their Families, is no more then what we clearly find in the Book of *Genesis* ; where the Oeconomy of *Abraham*, *Isaac* and *Jacob*, and of the Twelve Tribes, is exactly laid down before u, together with the Wars which they wag'd against the Kings their Neighbours, who could be no other then they

were, the Heads of some certain Families, more-especially in the Time of *Abraham*. For there is no likelyhood that he could so easily have vanquish'd Five Kings at a time, had they been Potent Princes.

In the mean time we are bound to believe, that Small and Petty Families, fearing to be oppress'd, joyn'd themselves with the more Numerous; who being continually augmented and re-inforc'd by their Assistance, were able, in process of Time, to spread themselves into Conquest, and to set up Powerful Dominions.

We shall not here trouble our selves to give an Account what Empires were the First that flourish'd in the World, that being none of our Business. 'Tis sufficient to tell yee by the bye, That several maintain the First and most Ancient Monarchy to be that of the *Assyrians*: and that others, on the contrary, assert the Monarchy of the *Egyptians* to be more Ancient then the former; which, in the Time of *Herodotus*, vaunted to the World a Pedigree of several Hundreds of Kings. Laying therefore this Question aside, which makes nothing to our purpose, we shall only speak of the several sorts of Government which were and are still extant among Men. These are usually reduc'd into Three sorts, under which, 'tis said, all the rest are comprehended; that is to say, *Monarchy*, *Aristocracy* and *Democracy*.

Monarchy is that which resigns the Sovereign Power into the Hands of One Single Person, who acknowledges none but God and the Laws to be above him. Of that kind are now-a-days the Monarchies of *France*, *Spain*, *Sweden*, *Denmark*, *Portugal*, &c.

Aristocratical Government admits into the Administration of it, a certain Number of Persons, more or less, Noble or Burgeesses, yet all distinguish'd by their Birth, which gives 'em a Right of Lordship; as is to be seen at *Venice*, where the Senate of Noblemen Commands after a Sovereign manner, to the Exclusion of the Citizens: and the Title of a Noble Venetian being Hereditary, such is also the being a Member of the Sovereignty. *Genoa*, *Milana*, *Ragusa*, and some of the Cantons of *Switzerland*, are govern'd according to the Laws of a Real Aristocracy.

Democracy, on the other side, is that which authorizes a Popular Government. We have at this day several of this sort in *Germany*, *Holland*, *Switzerland*, and the Country of the *Grisons*. For altho' that these Republicks are govern'd after a different manner, nevertheless they are Democratical for all that, with this Distinction, that some are better Regulated then the other. But in regard it is not our Business to enter, in this place, into an Examination of the Defects or Excellencies of either, we shall only tell you, That a Real and True Democratical Government is such a one, as wherein every thing being well manag'd for the Welfare and Advantage of the Publick, the Nobility has but a small part therein, being govern'd by Persons of Merit and Vertue, at least thought to be so, deputed by the Commonalty of the Cities and Provinces.

Besides these Three sorts of Government, there are Two others reckon'd into the Number, *Despotick* and *Oligarchick*; to which we may add a Third, and name it *Lacedaemonian*.

Despotick,

Despotick, gives an Absolute, Arbitrary, and Independant Power to the Prince, whose Will alone serves instead of a Law; and who, by virtue of that Will, may when he pleases deprive his Subjects of their Estates, as also of their Lives, without any Form of Process, or without any possibility of making any Defence against it.

Oligarchy, to speak properly, is no other then an Aristocracy administer'd by a small number of Persons, as Twenty, Thirty, or more, particularly made choice of. But these sorts of Government cannot long subsist; because that the nearer they approach to the Degree of Sovereignty, the more easily they mount up to it, and the more they are tempted to it. For several Ages we have not had any Governments of this sort.

The case is not the same with the Third sort of Government, which we have call'd *Lacedemonian*, in reference to the manner after which the *Lacedemonians* were govern'd. For they had a King; but his Authority was so small, that he could not undertake any thing of himself; besides, that he was responsible for his Actions to the *Ephori*, who were indeed the Real Sovereigns. Histories, both Ancient and Modern, furnish us with several of the same nature, among which, I shall make no scruple to number that of *France*. It being certain, that all the Kings of the First Race, and many of those of the Second and Third, were not Absolute in the Kingdom as now they are. 'Tis a thing well known to all the World. We have seen some of em more then once Depos'd by the States-General; not to mention the Authority of the Parliament, which far surpass'd that of the King's, and which was not utterly abolish'd till after the Ministry of Cardinal *Richieu*. The Kings of *England* and *Poland* are limited after the same manner. The first by the Parliament of the Kingdom, the second by the Dyets. However, these two Governments are not alike in all things, for that the one allows a more extended Power then the other.

Among all the Kingdoms of this sort, the most Extraordinary, in my Opinion, was that of *Aragon* in former Times. The People of that Kingdom, after they had shook off the Yoke of the Infidels, and re-conquer'd their own Country, made choice of a King to rule over em, who was *Don Garcia Ximenes*, a Gentleman of a Good Family, to whom they gave the Crown; but upon such severe Conditions, that we do not remember ever to have heard of the like. For they not only subjected him to the States-General of the Country, who might Depose him when they pleas'd, but they set over him a Chief-Justice, whom they call'd *El Justitia*, who could not be Condemn'd for any Crime, whatever it were, but by the States of the Country. This Minister was the Conservator of the Laws which they made at the same time, and which they call'd by the Name of *La-Vajon*; which contain'd little else only some Regulations to prevent the ambitious Designs of their King, and to bind his Hands in such a manner, that he could make no Attempt upon their Liberty. The two principal Articles were, That if the King went about to violate their Privileges, they might chuse another, either of the same or another Family; nay, though he were a Pagan, if they thought it convenient. The Second was, That, if he wrong'd any Subject or Vassal, the Nobles of the Country being assembl'd together, might confiscate his Revenue till he had satisfy'd the Party injur'd.

Besides that, they fram'd an Oath reciprocal between the King and themselves ; which was to be taken after this manner. The Chief Justiciary being seated upon a Throne, the King came and kneel'd before him, without either Sword, Cap, or Girdle ; and in that humble Posture swore to observe the Law, *La-Vajon*, together with all the Privileges which it gave to the *Aragonians*. And these were the peculiar Terms which they made use of ; *We that are of Equal Value with your self, make You our King and Lord, upon Condition that you observe our Laws and Privileges ; and if not, not.* This Law remain'd in full force till the Reign of *Don Pedro*, surnam'd *El Punal*, who not being able to digest this Custom, never left till by his Intreagues he had got so strong a Party on his side, that the Law *La-Vajon* was abrogated by the Assembly of Estates ; and the Original being deliver'd into his Hands, he cut it to pieces with his Poniard, where-with, at the same time, he stabb'd himself into the Arm, saying, That 'twas but fit a Law so injurious to Kings should be obliterated by the Blood of a King : and for that reason he was surnam'd *El Punal*. His Statue also is still standing in the Publick Hall of the Députation at *Saragossa*, holding a Poniard in one Hand, and the *Aragonian* Privileges in the other, which appears wounded with the Blow that he gave himself. From that time forward the Kings of *Aragon* were no longer Elective, nor depended upon the Nobility. However, the Officer call'd by the Name of *El Justicia*, still remains, and that Employment is one of the most Noble in *Spain*. He that enjoys it, takes cognizance of all Suits and Complaints against the Judges of the Kingdom ; and Condemns 'em to Death, if he finds that they have given an *Illegal* and *Unrighteous* Sentence. A Custom which cannot be too much applauded, and which ought to be observ'd in all well-regulated Governments. This would be a means to stop the Course of so much Injustice as is committed in the Palace ; it being certain, that there are but too many Judges over whom sordid Interest prevails to that degree, that they care not what Mischief they doe. Besides, that it wou'd oblige 'em to decide a Suit in Law at least within a Year, which is a time sufficient to understand the Merits of a Cause, unless where Witnesses are far remote in Foreign Parts. Is it not a thing that cries for Vengeance from Heaven, to see poor Families ruin'd by the Charges of the Barr, and drill'd on from one wrangling Quirk to another, for Threescore and ten or Fourscore Years together ? Yet there is nothing more common, particularly in *France* ; and we could cite Ten Examples for One, were it requisite. But we shall return to our first Discourse.

I am apt to believe that we have clearly enough demonstrated what are the different kinds of Government that have been in use till this present, and which are still at this day practis'd in the World. But there remains one difficult Question to be decided, which in all Ages has exercis'd the Wits and Arguments of Politicians. That is to say, Which of all these Governments is to be Preferr'd the one before the other, and which is most Advantageous to the Publick ? A Question that as yet has never been clearly resolv'd, some holding for Monarchy, others siding with the Republican ; and even these are divided among themselves into different Parties. We shall not undertake to determin a Question so dubious as this, wherein
the

the *Pro's* and *Con's* are upheld by 'so many Reasons. Nevertheless, for the Satisfaction of the Reader, who probably will be willing to know our Sentiments, we shall deliver what we think upon this Subject.

Despotick Government, the most Odious of all, as that which authorizes all manner of Injustice, Vexations and Cruelties, would however most assuredly be that, which without the least Hesitation we should prefer before all others, if all Kings were *Solomons*, such as of which Monsieur *Fouquet* gives us an *Idea*, in his Book of the *Counsels of Wisdom*. But because, so far from that, the greatest part of Princes are Wicked and Sloathful, Soft and Effeminate, or easie to be Deluded, we must agree with all the World, That *Despotick Government* is Unjust, Tyrannical and Detestable.

The Government purely *Monarchical*, which follows it close at the heels, is much more Mild and Equitable; yet after all, it is not the best, because the too great Power of a Prince generally tempts him to degenerate into Despotick. Desire of Command being a Fire, that like the Rage of Avarice, never cries it has enough. This is no more then what God foretold to his People, when he gave 'em a King in his Wrath; *He will have the Tithes* (says He) *of your Crops and your Vintage, and will give them to his Eunuchs and his Servants. And he will take your Men-servants and your Maid-servants, and your goodliest Young-men, and put them to his work. He will take the tenth of your Sheep, and ye shall be his Servants, &c.*

This Prophecy has been but too truly fulfill'd, and the History of past Ages sufficiently testifies, or rather we find verifi'd in our days. Not that we would be thought to believe that all Kings are animated with the same Spirit. We would not do that Injury to Royal Majesty: nor are we ignorant, that there have been and still are most Excellent Princes, who far from extending their Power beyond the Bounds of Law, confine themselves within very narrow Limits. But in conclusion, the Number of them is but small, in comparison of the Others. Sovereign and Arbitrary Authority is a Delicious Morsel which it is a difficult thing for frail Man to curb himself from Tasting, when it is only his fault if he do not: and some there be who pretend to that Equity and Moderation which otherwise they would not do, were their Strength but answerable to their Ambition.

Neither should *Aristocracy* be the Government we would make choice of. There is nothing in it but the Shadow of Liberty, where not only the Citizens but the Noblemen live in terrible Slavery. 'Tis true, the Government meddles not with their Estates, which I must acknowledge to be a great Point, but it will not permit 'em to expend their Estates as they please themselves: for the Government calls the Subject to such a vexatious Account, that it regulates their very Apparel, their Servants, the Furniture of their Houses, their Attendants, and prescribes 'em ev'n what People they must visit, and what Company they must keep. Reckon moreover the continual Fear they are in of speaking, before a Spye, of an Inquisitor of State, or of the Church, who, upon his single Information, is able to cause the Hanging or Drowning of the Best Man in the City. Nevertheless, these Inconveniencies, from which no body is exempt in *Venice*, from the Duke himself to the meanest Gondoleer, are nothing in comparison of that
same

same Dependency of the Third Estate upon the Nobility. They are greater then can be well imagin'd; so that a Citizen, how Wealthy soever he be, dares not abide in his Country, if an Ordinary Nobleman have an Antipathy or but a slight Quarrel against him. Insomuch, that instead of One Sovereign, he meets with Seven or Eight hundred before whom it behoves him to creep and cringe. 'Tis true, that in Recompence of this, they are permitted to keep as many Courtisans, and as publickly as they please; and that they are allow'd, at certain times, to run about in Masquerade. This is the Liberty which the *Venetians* so highly boast of, and which they many times so insolently brag of, with a *Where else, if not at Venice?* Nevertheless, we do believe they are not envy'd for it by many worthy People. However, we must not say, that these hard Laws which the Senate imposes upon their Subjects, are a sufficient Reason for the absolute condemning of Aristocratical Government, which is Mild of it self, and only render'd Severe and Harsh by the *Venetians*. Yet they have done no more then what they could not dispense with doing, if they intended to prevent Quarrels and Disorders. These ponderous Laws are they that have establish'd their Republick upon the same Foundations on which they fix'd it above Twelve hundred Years ago; and which are so essential to this sort of Government, that without 'em it could not long subsist.

As for *Democracy*, we shall not say much of it, as being a Government that was never well receiv'd into this World. For though *Cranet*, in *Herodotus*, recommends it to the Persians, *Propter illam Isonomiam, or Equabilitatem Juris*, that, as he says, attends it; yet *Megabyus*, in answer to him, explodes it. For says he, *Οὐδὲν ἀχρεὲς ὑπὲρ ἐστὶ τὴν πλὴν τοῦ ποταμοῦ ὕδατος ὕδατος, &c.* Nothing is more Sottish nor more Insolent then the Popular Multitude. What a King does, he acts with Advice and Knowledge. But 'tis the Property of the Multitude to understand nothing. For how should they who never were Taught, nor knew any thing of what was Noble and Decent ev'n in their own Families, understand what belongs to Government of Kingdoms? running headlong upon Business like a Torrent. They therefore that wish Evil to the Persians, let them make use of a Popular Government. As for those that extoll *Democracy* upon the account of the Jewish Polity, they are vainly mistaken. For the Jewish Government was indeed the purest Monarchy in the World, call'd therefore by our best Divines *Θεοκρατία, a Theocrasie*, govern'd under God their Supreme Sovereign, by his two Vicegerents, *Moses* in Temporals, and *Aaron* in Spirituals; only with this Distinction, that *Aaron* was subordinate to *Moses*; besides, that the Judges were single Persons. Moreover, we read in Sacred History, That the Princes of the Tribes apply'd themselves to *Moses*; The Princes of the Tribes contributed toward the Expences of the Ark, &c. Expressions that no way agree with a *Democracy*.

As for *Holland* and *Switzerland*, if they pretend to imitate the Exemplar of the Jewish Form, most certainly those States are far from being regulated according to their Maxims. More-especially the *Switzers* have the greatest need in the World of being Reform'd; and this I leave to the Judgment of all Men that have been there. In some Cantons the Sovereignty remains in the Hands of a small number of Inhabitants, who pretend

tend to be the only Burgeses and only Lords. In others, on the other side, the most Important Affairs are decided in the open Field, by Plurality of the Voices of an Ignorant Rabble, who many times understand nothing of the Affair in Question. Thus it is that they consult of Peace and War, of raising Money, and of all things in General, and which is more miserable, out of this Popular Riffraff it is that they make choice of Envoys and Deputies that are to sit in their General Dyets, and treat of publick Business in behalf of their Cantons. So that there is nothing more usual then to see Shoemakers and Ploughmen in those great Assemblies, who bring their Children to wait upon em as their Servants.

It now remains to examine that Government, which we have said to be of the *Lacedaemonian* Kind, which is neither Republican, nor truly Monarchical, but is a mixture both of the One and the Other. Nor do we know any Kind more Excellent then this. It is usually accompany'd with Liberty enough. The Nobility Enjoy those Priviledges which are due to their Birth, and yet the third Estate is no way Excluded from Business. And they who believe that the Majesty of a King becomes a Kingdom, find wherewithal to content themselves; besides that, really and truly a King is most necessary upon a thousand Occasions, but more particularly in War and in Battels. It being certain that his Presence enlivens the Officers and Soldiers, and that it will avail much more then all his Generals. For which reason, the first Maxim that we believe useful for a King, is to look after his own Business himself, remembring an Old Proverb very frequent among Merchants, *That he who does his Business by a Deputy, goes to the Hospital in Person.* Not, that we are of their Opinion, who would have a Prince expose himself like a Common Soldier, or that he should charge with his Sword in his Hand at the Head of his Squadrons; that can never be proper, but when all lies at stake, and when there is a necessity either of dying or vanishing, to avoid an otherwise inevitable ruine. But unless it be upon such an Exigency, it behoves a Prince to be sparing of himself, and not slightly to venture a Life, which concerns the welfare of so many People, and upon which depends the Safety of a Country. And let the World say what it pleases, we never esteem'd the King of *France* the worse for always keeping himself without the Reach of Gunshot. 'Tis not for a Victorious Prince to try all sorts of Adventures. A Bare Gentleman may meet with Honour and his Fortune in such hazards, but the Risco's of a Monarch are quite another thing. His good Fortune consists in managing his Affairs himself in his Cabinet, to dive into every particular that concerns Policy and War, to command his Armies in Person, to issue forth his Orders, and take care that they be faithfully and courageously put in Execution.

This is what ought to be done, and what the King of *France* has done. And if he had not fully'd so many Excellent Endowments with a fatal Ambition of Dominion, and building his Power upon that of his Neighbours, it may be, he might be compar'd with the Greatest of Christian Princes that ever Reign'd. But this same Passion that has transported him to put all *Europe* into Disorder and Combustion, contrary to the Law of Nations, and the Faith of Treaties, will much Eclipse the Lustre of his Glory.

Glory in future Ages, and will leave him no other Parallel but what may be made between him and a Pagan Prince, who look'd upon the Rights of Conquest and Convenience to be Sufficient and Legal. Nevertheless, the Confederate Princes have had the Patience for several Years to see this puissant Enemy of their Liberty continue his Conquests, at a time when it would have been no hard matter to have put a stop to his Career; every one perhaps believing that the Tempest would not fall upon Him; as if their Neighbours House could be burnt, and yet their own receive no damage. But at length, thanks be to Divine Providence that watches over the Preservation of Nations, they have open'd their Eyes to see the danger that threatens 'em. They are become sensible of the Ambitious Designs of that haughty Puissance, and have put themselves into a Condition to stem their Impetuosity. Nevertheless, we cannot forbear saying, that they stay'd till the last Extremity, and that had the League been delay'd but ne'er so little longer, the Opportunity would have been clasp'd. The King of *France's* Aim was neither upon this or that Province, but upon the Empire, upon all *Europe*, upon the Universal Monarchy. This was the Mark he drove at, and which he had labour'd for so many Years. 'Twas the Conjecture of the Politicians fifteen or twenty Years ago, but now 'tis plainly seen and understood, nor do the *French* themselves dissemble it. All the Books that have been written at *Paris* for this seven or eight Years, and the Verses that have been there dispers'd abroad, are full of the Prognosticks of this future Monarchy.

One of the King's Geographers, well known, has made no scruple to place him in the Number of Emperors of *Europe*, in a Treatise of Geography which he publish'd within this little while, which doubtless was not done without Order. However let us suppose the Contrary, and that all that has been publish'd in *France*, was done unknown to the King; nay, let us acknowledge that he knew nothing of the Medal which was coin'd some Years ago, wherein he was represented with an Eagle upon his Head: Yet what Interpretation will they give to that same Insupportable Pride wherewith he treated all Sovereigns? Not one was Exempted, no not the Pope himself, to whom he sent a Person to out-brave him upon the Apostolical Chair, that carry'd himself more like an Insolent Victor than an Ambassador, and who acted the King above a Year, even in *Rome* it self. How superbly did the Count d' *Avaux* declare in the King's Name to the States of *Holland*, that he would look upon all those as his Enemies, that should undertake to oppose him in the Business of *Cologne*. Could any Man act more like a Sovereign upon that Occasion? And was not the bestowing one of the Principal Electorates upon his Creatures a subjecting both the Emperor and Empire. Add to this the Sovereign Court of *Mentz*, before which there was no Scruple made of citing all manner of Princes, nor of giving forth Decrees of Disseizen against 'em, which afterwards were put in Execution by force of Arms in time of Peace.

Let us also reflect upon the manner how he tyranniz'd over the poor *Genoeses*, whom he forc'd to alter their Municipal Laws, to the end they might send their Duke into *France* to make him satisfaction, and that he might be Duke himself as well at *Paris* as at *Genova*, condemning 'em to a

Fine

a Fine of a Hunder'd thousand Crowns a Week, in case they fail'd to send him. If this were not acting like a universal Monarch, I confess I do not understand the Signification of the Term. This is then a thing sufficiently prov'd, or rather generally known, that the King of *France's* design was no less then to invade the Territories of his Neighbours, that he might possess the One, exclude the Others, and keep the rest under the Fealty and Homage which a Vassal owes to his Sovereign and Lawful Lord. It only remains to examine whether his Projects are in the Number of those that may be call'd Chimerical and Imaginary, wherein there is no probability of Success, or whether his Forces are not much greater then we imagin'd em to be, and may not give us some reason to be afraid as well of our own, as the Liberties of our Neighbours.

This is a very nice Subject: for the Publick is now a days come to that pass, that it will not be disabus'd; were they within half a Foot of Ruine, for a Man to shew em the Danger, and the means to avoid it, is not the way to please em; like Children, they are offended with those that snatch em from the Brink of danger: and they are better satisfy'd with the Scriblers of petty Pamphlets, and the Dispersers of rascally Jest, and frivolous Ballads, that are always for singing Victory and Triumph, and that frequently too, when there is the least Occasion for it. As for our selves that profess Sincerity, we are so far from disguising our Sentiments, that we shall speak with the Freedom and honest Liberty of a good Citizen.

It is too certain, that considering the Condition of Affairs after the Battel of *Landen*, the King of *France* with his own Forces, and which is more, with his Fortune, upon which in imitation of *Cesar*, he has much more rely'd, then upon all the Rest, might have extended his Conquests a great way, and if he could not have attain'd to the End of his Designs, at least he might have come very near it. The *Low Countries* and *Liege* lay absolutely open, as every Body knows: So that had he made himself Master of those Places, what could have hinder'd him from entring *Holland* and carrying all before him, as he did in 1672. But luckily for us the Countenance of Affairs is chang'd since that time. The King of *France* has been constrain'd to reform a good Number of his Cavalry, for want of Horses to mount em, and Money to pay his Troops. On the Other side, the Confederates have so considerably augmented their Forces both by Sea and Land; that the Dauphin with all his Courage has been forc'd to lie Entrench'd during a whole Campaign, and the *French Fleet* has been wedg'd up in *Toulon*, not daring so much as to shew it self, while *Diep*, *Haure* and *Honfleur*, suffer'd the same hard Usage as *Genoa*, *Liege* and *Charleroi* had receiv'd before from the King of *France*.

These Prosperous Beginnings are good Prognosticks of a Happy Issue: thanks be to God Things are now in a good Posture; and provided the Confederates continue stedfast in their Union, not only the Words of that Medal which *M. Van Bunninghen* ascribes to em, may be accomplish'd by their Valour, but by a greater Miracle it may be their good hap to force the Radiant Sun of *France* to a sudden Retrogradation.

In the mean time, there is no falling asleep upon these favourable Hopes, as if God or Fortune were to doe all; New Efforts are still requi-

site, and a Restless Prosecution till the End be attain'd, which was first propos'd at the Beginning of the War. This is the Duty of Sovereigns. That of Private Persons is freely to open their Purse, and contribute their Abilities whenever they may prove useful to the Publick. With which Design it is that we have undertaken this Work, which we have publish'd to the World as a Mark of our Zeal for the General Cause. For in regard the King of *France*, as Bold an Invader as he is, endeavours however to colour his Usurpations under Specious Pretences, which he would never want, tho' he should extend his Conquests to the End of the World; we thought it would be a labour no way unacceptable or unprofitable to the Publick, to set forth an Abstract of the Claims which either he has, or pretends to have to the Dominions of the Confederates; that so they who are ignorant of 'em, may truly inform themselves, and prevent their being deluded by *Manifestos*, which utter any thing that makes for their Advantage.

Pretensions of the Crown of France against the House of Austria; and first of his Claim to the Empire.

THE Crown of *France* is, beyond all Contradiction, the most Ancient in *Europe*. The Ruines of the *Roman* Empire were the Materials which she made use of to erect her Monarchy. And tho' we know not precisely at what time it began, nor what Title the Founders of it assum'd, nevertheless there is no question but that *Pharamond* was King, Prince, or Duke of the *Franks* in the Year 420. To this *Pharamond* it is that the Original of the *Salick Law* is ascrib'd, so call'd, according to some, from the Word *Isala*, which was formerly the Name of a River; because, say they, it was made in *Trans-Issalania*, now *Over-Issel*.

Others assert it to have been made in *Taxandria*, a Country depending formerly partly upon *Brabant*, and partly upon the Bishoprick of *Liege*. Some Authors are of opinion that it was so call'd because it was written in the *Salle* or Great Hall where the King held his Council. And several derive the Name of it from the Word *Salick*, which in the *Teutonic* Language signifies *wholesome*, in imitation of the *Roman* Laws, which in many Places were entitul'd *Leges Salutaris*. But we rather think it proper to prefer before this Opinion, that other which maintains that this same famous Law deduces the Etymology of its Name from the *Salians*, or *Sabi*, a People that inhabited along the River *Sal*, who were the Founders of it, and were govern'd by it. But afterwards, when they remov'd into *Gaul*, they assum'd the Name of *Franks*, in Opposition to that Servitude, under which the Emperors had held all *Europe* for so long a time; though they still preserv'd their Law. This is the same which the *French* pretend to observe at this Day; and which they quote upon all Occasions with an Ostentation, for which they have but very little ground: seeing that after all the Enquiry which the Learned have made into this Matter they could never yet discover any thing of Certainty concerning it. There are many likewise who condemn it for Apocryphal: nevertheless, the *Messieurs Pishon* and *Bignon*

Bignon have given us some while since, a kind of Formulary of it, or rather an Assemblage of Articles, which they have collected and raked together out of several Authors: a Plentiful Spring from whence to draw a great many things, were it not but that the Times are so remote.

The two pretended Articles of this Law are these; the one Excluding Females from Inheriting the Crown; and the other to prevent the Alienation of the Royal Demefnes.

The First, say they, ran in these Words:

In the Salick Land let no Portion of Inheritance descend to the Female, but let the Male Sex enjoy the Possession.

The Substance of the Second is this:

No Salick Land can be alienated from the Total, but shall remain united to it, Inseparable to Perpetuity.

The Title that *Goltadius* gives us of 'em is this:

*These are the Salick Laws of Pharamond the First King of the Franks, formerly decreed by the People and their Lords in the Sates of Salize. And in the Margin he interprets the States of Salize, Salzburg upon the River Sal, in Franconia. But Authors so ill agree upon the Time, the Place when and where this Law was made, the Articles which it contains, and the General Title it self, that there is nothing to be positively ascertain'd. The Collection which we have of 'em at this Day, is entitul'd La Paët de la loy Salique. The Compact of the Salick Law. It contains 80 Heads, among which, that of Free Tenures in the Sixth Head is that above-cited, for the Exclusion of Females. Nor do the French make a less noise about that which concerns Inalienation; and because the Kings of France from *Meroveus* to *Charlemaign* were extreemly Potent, and held under their Dominion a good part of *Germany* and *Italy*; they pretend at this Day that those Countries were Demefnes of the Crown, which according to the Fundamental-Law of the Kingdom could not be alienated. Add to this, that *Charlemaign*, King of France, was made Emperor, and the Empire declar'd to be an Inheritance founded in his Person and the Persons of his Successours. And in regard the *Carlovingian* Race ended in *Germany* by the Death of *Charles the Grofs*, they pretend that the Imperial Diadem ought to return to *Charles the Simple*, King of France, whose Person they represent and have the same Claims. By vertue of which, several of their Predecessours have assum'd the Title of Emperours, as *Philip I. Lewis the Grofs*, and *Lewis the Young*, who always bare in their Escutcheons a Spread-Eagle, charg'd with France. And it may be for this reason it is, that the three last Kings have all along assum'd at the Ottoman Court the Title of Emperors of the French, believing that to be a sufficient Challenge of their Claim; for that they make no Scruple to give out, that the Empire is a Dependence belonging to their Crown.*

Enquiries into the Pretensions of France to the Empire.

THESE Pretensions are so Chimerical, that we could hardly resolve to insert 'em here. But in regard that *France* her self insists upon 'em, we thought it convenient to give some Account of 'em among others, of which we shall find a great many that are no better grounded. We agree that the Empire was settl'd and founded Hereditary in the Person of *Charlemaign* and his Successours. And indeed he would but little have understood his own Interests, had he accepted it upon other Conditions; He who had conquer'd with his Sword the Greatest part of the Countries that Compos'd it, and who had restor'd the Pope, and invested him in a very Considerable Territory. 'Tis likewise true, that after the Death of *Charles the Gross*, the Empire was naturally to return to *Charles the Simple* his Cousin and presumptive Heir. But what then? Because a Revolution, very frequent in Kingdoms, has remov'd the Empire of *France* into *Germany*, and depriv'd a Prince that was no way capable of it, to give it to another who better deserv'd it; is it a Thing reasonable or agreeable to Conscience for a Man to revive at this Day Claims that have been buried in an Oblivion of about seven Centuries? During which, the Empire has not only admitted New Constitutions with the Consent of the Popes, and by the Advice of the Statés Assembl'd, but also has accounted *France* among her Demesnes, and has receiv'd the Homages due for 'em, as we shall make appear in the sequel of this Treatise.

As to the *Salick*-Law, upon which the Kings of *France* so strongly build in their own Imaginations, we have already told you what it is. History testifies, that the most Ancient Kings, next to *Pharamond* who was the Founder of it, have dispos'd of their Kingdoms in a manner altogether opposite to those pretended Constitutions. *Charlemaign* gave *Italy* to *Bernard* his Brother; and *Lewis the Debonair*, his Son, divided his Empire among his three Children, making one Emperor, the other King of *Germany*, the third King of *France*. Which makes us justly doubt, whether Inalienation were truly one of the Articles of that Law. As to what concerns the Exclusion of the Females, we shall say nothing at all of it, because there has been no occasion known, whereby the Daughters could pretend to the Crown. But if the First Head be not Essentially Fundamental, there is as little probability that the other should be so. And indeed till after the Death of *Charles the Fair*, there was no talk of the *Salick* Law, neither in whole, nor in part; nor did they ever bethink themselves of quoting it, but only to exclude *Edward* King of *England*, who claim'd, in right of his Grandmother *Margaret*, the Daughter of *Philip the Fair*. Nevertheless, - he had a numerous Party that stood for him; and if he had not been a Foreigner, certain it is, that he would have been acknowledg'd, seeing, that notwithstanding that Objection, he had such a fair Reputation in the Country, as for a long time to balance the Opinions of the French Lords in the Assembly of Estates held at *Senlis*. But the Bishop of *Beauvois*, who oppos'd the King of *England*, rising

rising up of a sudden, and rehearsing that Passage in the Gospel, *Videte Lilia agri, qui neque laborant nequeunt*; "Ha! Messieurs, (said he,) "God would this day give us to understand by his Gospel, what your "Lordship's Decision ought to be in this case. The *Lillies labour not, "neither do they spin*; as much as to say, that the Crown of *France*, de-
 "noted by the *Lillies*, ought not to encircle the Head of a Woman.—
 These Words wrought so effectually, that immediately the Assembly resolv'd upon the Exclusion of *Edward*, in favour of *Philip of Valois*; who was proclaim'd King; and who, in Memory of that Accident, took for his Motto the very Words which the Bishop had made use of. And from that time forward to this day, the Kings his Successors have all along preserv'd this Custom; and by length of Time, have made it a Municipal Law not to be disputed against 'em. Now this Law can only take place among Subjects, upon whom their Kings impose what Yoaks they please; and not among Sovereign Princes, who acknowledge no Superiors but Justice and Reason. And in regard they require, that when Treaties of Alienation are made between Sovereigns, whether by Renunciation, Assignment, Deed of Gift, or Right of Dowry, whatever was promis'd, should be sincerely perform'd: on both sides, such Pretensions will be always sufficient to authorize the Right of Possession; and it is in vain for the Kings of *France*, in Opposition to Treaties, to alledge, That upon the Day of their Coronation they swore never to make any Alienations from the Crown. This would be good reason to excuse 'em from Treating; but when the thing is once done, there's no recalling Word and Deed. 'Tis their Misfortune if they are perjur'd: it behov'd 'em to be more careful; or rather, not to swear to a thing which they knew it was not in their Power to perform. As for Foreign Princes, 'tis no business of theirs to trouble themselves with these Scruples, or to take notice what the King of *France* has sworn; for provided they seek their own Advantages by only lawful Means, no Blame can light upon them. We say, moreover, that this same Oath carries in it self a Character of Iniquity, since it only tends to swallow up all the Dominions in the World, one after another. There is in it an inordinate and boundless Avarice and Ambition, altogether remote from the Spirit of Christianity. It may be properly call'd, Swearing to devour the Estates and Territories of other Men, and never to restore 'em. And indeed, do we not find that *France* extends her Pretensions almost over all the Dominions of *Europe*? and that she is not asham'd to put the Roman Empire, which, according to the Order establish'd for several Ages, has always presided over all the rest of the Kingdoms in this Quarter of the World, in the Number of her Provinces, and among the Demesnes of her Crown? After all this, we have no more to say, but that in all probability, the Spirit with which this Court is enliven'd, will never change.

The Pretensions of the King of France to Castille.

ABOUT the Year 710. the *Moors* coming out of *Africa* into *Europe*, subdu'd all *Spain*, meeting hardly with any body that oppos'd 'em, unless it were two Princes; the one of which, nam'd *Pelagius*, founded a small Kingdom which he call'd *Oviedo*, now *Leon*. He also made himself Master of another petty Country upon the Frontiers of his Kingdom, to which he gave the Title of a *County*, and built several Castles therein to secure it from the Invasions of the *Moors*, from whence it was call'd *Castille*. These two Provinces remain'd under the Dominion of the Heirs of *Pelagius*, till the Year 814. that Don *Alphonso*, King of *Oviedo*, and Count of *Castille*, fixam'd the *Chast*, because he liv'd a Chast and Religious Life, finding he had no Children by his Wife *Bertha*, made *Charlemain*, the Emperor and King of *France*, his Heir; to whom he sent an Embassie of the most Noble Lords of his Kingdom to present him with his Will, and to intreat his Acceptance of it.

Several Reasons, say the Historians, engag'd Don *Alphonso* to leave his Dominions, after his Death, to *Charlemain*. First they were united by the Ties of a very strict Friendship. Besides, he was a Christian Prince, and the only Prince in his time who was able to protect the Church, which was oppress'd by the Infidels in those Countries after a very cruel manner. But, in my Opinion, the most enforcing Reason of all, was that of Necessity, which oblig'd Don *Alphonso* to call in *Charlemain* to his Aid. For he had not only groan'd a long time under the Tyranny of the *Moors*, but he found himself in great danger of being Dispossest by *Hifen Miramolin*, who would constrain him to send every Year Fifty Noble Virgins, and as many Damsels of the Meaner sort; which *Mingas* his Predecessor had been enforc'd to pay him, not to mention the vast Summs which he extorted from him every Day, nor the Authority which he exercis'd in his Kingdom to his Prejudice.

Such was the Servitude to which *Alphonso* was reduc'd, without any hopes of being deliver'd but by the Assistance of *Charlemain*; who, though a great Protector of the Faith, was not so kind natur'd neither, as to give it him for nothing. No wonder then, if at such a Conjunction, *Alphonso* rather chose to subject himself to a Dependency upon a Christian Emperor, and to bequeath him his Kingdom after his Death, than to see it usurp'd by the *Moors* during his Life-time, and run the risk of their barbarous Usage to boot. However it were, *Charles the Great* came into *Spain* with an Army of 140000 Men, accompany'd with the Choice of the French Nobility, who flockt to that War, some out of a Motive of Honour, others for the sake of Religion; for those Wars were accounted Holy, and the Ministers preach'd 'em up for such, as afterwards they preach'd up the Croisades. This War lasted Fourteen Years; at the end of which, all *Spain* being reduc'd, *Charles* was acknowledg'd Sovereign, and they brought him the Fire and Water, according to the Custom which was anciently observ'd.

Upon

Upon this Donation it is, that the Kings of *France* ground their first Claim to *Castille*, as *Charlemain's* Successors, from whom they pretend to be descended; which we shall not dispute with 'em, though their Filiation be not so clearly made out, as having no other Warrant for it but the Chronicle of *Sev.*, the Sentiments of *Cujas*, and a Letter of Pope *John VIII.* written in the Year 872. to *Abbot Hugh*, the Brother of Marquis *Robert*; wherein he tells him that he is, *ex Regali pro sapia editus*. However, after the Death of *Don Alphonso*, *Don Ramira*, and *D. Garcia*, his Nephews, succeeded him. But in a short time after they were gone, the Government chang'd; for the *Castillians*, provok'd by their King *Friulla*, who had usurp'd the Crown from his Nephews, rebell'd, and set up Two Sovereign Judges, *Nuga Rasara*, and *Flavin Calvo*, and the Kingdom remain'd in that Posture from the Year 896. to 937. At what time *Don Sanches*, King of *Oviedo* and *Leon*, suppress'd the Authority of the Judges. He was the first that erected *Castille* into a Sovereign Country, which happen'd after a particular manner. A certain Lord, whose Name was *Don Ferdinand*, coming to the Court of *Don Sanches*, sold him a Horse and Goshawk, both perfect Creatures in their Kind: and in regard the King could not pay him down ready Money, and for that he had a great desire to have the Hawk and the Horse, he agreed for a very high Price, payable at a certain time, with this Condition, That if the King did not pay the Money by the Time, he should double the Principal and Interest every Month. The Money therefore not being pay'd, it so happen'd, that two Years after the Expiration of the Term, the Summ became so vast, that all the Gold in the Kingdom was not sufficient to discharge it. Which induc'd *Don Sanches* to erect *Castille* into a Free and Independent County or Earldom, and to give it in Payment to *Don Ferdinand*, who by that means enjoy'd a Sovereignty in Exchange for a Horse and Goshawk, which he possess'd, both himself and his Posterity, till the Year 1028. At what time it was annex'd to the Crown of *Navarr*, by the Marriage of *Nuga*, the only Sister and Heiress of *Don Garcia*, the last Count of *Castille*, with *Sancho IV.* King of *Navarr*, who erected it afterwards into a Kingdom, which he gave to his Son *Ferdinand II.* the First King of *Castille*. After whom, among other Kings, reign'd *Sancho*, and his Son *Alphonso IX.* who marry'd *Leonora*, or *Eleonar*, the Daughter of *Henry II.* King of *England*; by whom he had Seven Children, *Blanch*, Queen of *France*; *Berengara*, marry'd to *Don Alphonso*, King of *Leon*; *Sancho*, whody'd an Infant; *Urraca*, Queen of *Portugal*; *Leonora*, Queen of *Aragon*; *Constancia*, a Nun; and *Henry*, who, after his Father, was King of *Castille*; but he reign'd but a short time, losing his Life by an unfortunate Accident in the flower of his Youth. For that lying at *Palancia*, in the Bishop's House, where he was taking his Pleasure with some hot-headed young Lords, one among the rest, whose Name was *Mendosa*, threw a Tile from the Top of a Tower, which lighting upon the King's Head, broke his Skull, so that he dy'd in eleven Days after.

This unexpected Death of his, left all the Right of the Crown to *Blanch*, the Eldest Sister of *Henry*, who was marry'd to *Lewis VIII.* King of *France*. But her Sister *Berengara* being upon the Place, made a strong Party in the

the Kingdom, and sent *D. Lopez de Haro*, and *Don Gonsalo de Torro*, to seek out her Son, and bring him Home. But because she was afraid lest *Alphonso*, King of *Leon*, her Husband, should refuse to consent to this Usurpation, she enjoin'd her Envoys to conceal the Death of *Henry*, and to say that 'twas *Henry* who sent for the Infant. Which Trick of hers succeeded so well, that they brought the young Prince along with 'em to *Orelia*; where *Berengera* caus'd him to be proclaim'd King, under an Elm, by some Persons assembl'd together for that purpose: and from thence he was conducted to *Palencia*, where he was receiv'd. However, the Greatest Part of the *Castillians* and the Grantees of the Kingdom would not acknowledge him, but assembling the States of the Kingdom, they deputed four of the most Eminent among 'em, to make their Submissions to King *Lewis*, and the Original of their Letters are still to be seen in the Treasury of *France*. There were also some Governours of Cities, who declar'd for King *Lewis VIII.* King of *France*; and *Don Alphonso*, King of *Leon* also, no way approving this Act of Injustice, betook himself to Arms against the *Castillians*, in favour of *Blanch*, who besides the Right of Eldership which naturally call'd her to the Crown, she or her Son had also on her side the Will of the deceased King her Brother *Henry*, who appointed *Lewis* Dauphin of *France*, and his Nephew, for his Heir. Nevertheless all these special Titles could not hinder *Ferdinand* from settling himself upon the Throne of *Castille*, in such a manner, that never any Kings of *France* reign'd in that Kingdom. However from this *Blanch*, the Mother of *St. Lewis* it is, that they deduce their best Pretensions to *Castile*: Let us now see whether they are of any Validity or no.

Enquiries into the Pretensions of France to the Crown of Castille.

BEfore we enter into the Discussion of these Pretensions, it will not be amiss to set forth in short what are the usual Titles, by vertue of which Princes reign over the Dominions and Territories under their Obedience, to the end the Reader in the Sequel of this Treatise, may the more easily understand True Interests from False Ones.

We shall reduce 'em then into Eight, which are the Principal Ones, under which are contain'd all the different Manners of acquiring Sovereign Power, as well just and Lawful, as Illegal and Tyrannical.

The First is, Next Inheritance: the Second is Acquisition in right of Dowry: the Third, Donation: the Fourth, Purchase: the Fifth, Reversion: the Sixth, Renunciation by Treaties and Mutual Contracts. The Seventh, Possession; and the Eighth, Conquest and Usurpation.

Next Inheritance, that is to say, the Right of the nearest in Blood to the Succession, is the most just in the World, and has been acknowledg'd for such in all Times and among all Nations. In a word, there is nothing more Natural then for Children to possess the Estates in which they had an Interest while their Fathers were alive. For by the Law, *Liberi non videntur novam hereditatem percipere, sed liberam Bonorum Administrationem Consequi.*

qui. Which gave *Salvian* an Occasion to say, *In domo Patris etiam Infantibus filii et filia Dominuli & Dominula appellantur, ut arctandi non Videantur, qui pene ad bona propria veniunt natione naturali, quasi quadam Lege Tacita Liberis Parentum hereditatem abdicente.* Which is so true, that the Possession of Estates is never reckon'd to begin, but to continue in the Persons of the Children. *Continuationem Domini Necessitatemque Successionis esse ipso jure.* The same is also to be said in respect of Collateral Succession, when the Person in Possession has no Children; for then the Inheritance naturally devolves to the next of Kin, whether Male or Female; unless the Municipal Law has otherwise ordain'd, as in *France* and *Savoy*, where only the Males have right to succeed to the Crown.

After Inheritance, there is no Title more legal then what a Man acquires by Marriage to the Estate of her whom he marries. For seeing that by the Institution of that Sacred Knot, the Woman puts her self under the Dominion and Power of the Husband, to whom she bequeaths her self, 'tis Evident that her Estate, which is of a Nature much Inferior to her Person, is subjected to him also, till Death happening, the Children of this Wedlock succeed to the Estates of both the One and the Other, which by that means become incorporated and united, unless for want of Issue the Estate of the Woman returns to the next of Kin.

Donation, to which we have given the third place among the Titles of Princes, 'tis without question a very just Title, according to that same Axiom, That nothing is better acquir'd then what is given. Nevertheless, that Donations may obtain their due Force and Validity, they must be made according to the Rules of Piety and Reason. For Example, It would not be just, for a Man to disinherit his Lawful Heirs out of a Humour or headstrong Obstinacy, to give his Estate to a Stranger. This in some measure would be to give away that which was none of his own; in regard that according to our Principle, Children have a right to the Estates of their Parents in their Life-time. Nor do's the known Law of the Land permit Private Persons to give away above a Third part of their Estate, to the Prejudice of their Heirs, but obliges 'em to be civilly accountable for their Children, till they have attain'd to Twenty five Years of Age. Which proves sufficiently that the Law looks upon 'em to be as it were the Guardians and Conservators of their Childrens Estates. However it is not to be thought that a Parent's Hands are so far bound, that he shall have no Power to satisfy his own bountiful Inclination, whether in respect of any particular Friend, or any other Person from whom he has receiv'd some Considerable Kindness. And hence it comes to pass, that besides his Goods and Chattels, the Law allows him to dispose of the Third part of his Real Estate. Now if the Law have granted this Priviledge to Private Persons, there is much more reason that Sovereigns should have the same Advantage; otherwise they would be more ty'd up then their Subjects, as being debarr'd the Means to exercise their Piety, their Liberality and Magnificence, which are Vertues so Essential to Monarchs; that without 'em they are distinguish'd from other Men but by those things which are naturally hateful: and it may be justly said of them, what the Queen of *Navarr* said of the Popes, that they were like Conjurers, who were able to do a

great deal of Mischief, but no Good. But let us speak better things, and agree that it is Lawful for a Pious, Wise and Grateful Prince, according to times and occasions, to make Donations; more especially when he finds that they consent with the Welfare of the People. Now there are two sorts of Donations; some are made during the Life of the Donor; others are Testamentary Bequests; which being firm and valid, as has been said, they who are in Possession by virtue of such Donations, are legally seiz'd of such Goods or Legacies.

Acquisition by purchase is also a very good Title. 'Tis so in respect of private Persons, whose Right to the Estates which they bought and pay'd for was never yet dispos'd of; and we must allow it to be the same with Sovereigns, who it may well be thought would never yield to weaken themselves and lessen their Power and their Grandeur, were they not induc'd thereto by more than ordinary Motives. And the Validity of these sort of Alienations, as well as of all others, is doubly Authentick when the People give their Consent, which always appears by their Silence; it being certain that when they believe it not Convenient, they know which way to oppose it, and to protest that they will ne're be separated from the Kingdom to which they are united; as twice it fell out under the Reign of *Francis I. King of France*, after the Treaties at *Admiral* and *Cambrai*. However, certain it is, that the Purchaser, or the Person in whose favour the Sale, Donation, Testament or Resignation was made, has warrant sufficient to justify and defend his Right against all those that would go about to dispossess him.

Reversion is without question the fairest Flower in the Crown of Monarchs, and the Greatest Mark of Royal Majesty and Grandeur. For in short, when a Sovereign, upon the death of a Feudatary Prince that does him Homage, enters upon his Lands, or else Invests another in 'em, does not this suppose that it was He who made him what he is? And is there any more apparent Mark of Supremacy, then to make Sovereigns and bestow Sovereignities? This is that which may be truly call'd Royal Majesty, and the Image of Divinity. 'Tis then the Right of Great Princes to dispose of the Provinces of their Feudataries when they have revolted from 'em, or when they dye without Issue. And though this Right belongs to Monarchs only, exclusively from all others, nevertheless the Law being desirous to distinguish the Noblemen from the Peasants, has allow'd some part of this Privilege to Feodal Lords, who by virtue of their Feifs succeed by right of Eschetage to the Estates of those that dye without Heirs, have their Rent-Services and Alienation-Fines pay'd 'em upon the change of every Proprietor, and assume to themselves the Confiscation of Felons Goods and Estates; as if the Feif or Lordship were the Maf from which these Estates had been dismember'd, and were to be united again.

We speak not here but only of the Customs settl'd in the Lordships of *France*, *England*, the *Low-Countries*, and some other Places: for we are not ignorant, that in *Poland*, and some parts of *Germany*, the Privileges of Lords are much more extended: but in regard they are altogether Tyrannical,

radical, and contrary to Equity and Right Reason, we shall say nothing of *em*.

The Rights which are drawn from Renunciations, made and granted by Treaties of Peace or Alliance between sovereign Princes, are no less Authentick and good then any of those before specify'd, tho' at this Day they are those which are the least regarded, the Greatest part of Princes looking upon Treaties only as indirect ways to attain their Ends, and being perswaded that they are not oblig'd to observe 'em any longer then they serve their Turns: pernicious Maxims that occasion most bloody Wars and the Miserie of the People. And some there are who proceed to that Excess of Infidelity, that they never treat but only to gain time, and with a design to act afterwards contrary to what they have promis'd and sworn to. However, certain it is, that the Observance of Treaties is grounded upon the Laws of God and Man, which they most horribly violate, who falsifie their Publick Contracts. That the Observance of Treaties is grounded upon the Laws of God, is easie to prove out of Sacred Story, and particularly by the manner of the *Israelites* acting with the *Gibeonites*, tho' they had not dealt sincerely with them, but quite the contrary had given the *Hebrews* a fallacious account of Things. So that one would have thought they should not have held themselves bound to stand to the Agreement, more especially seeing that reason of State and Religion seem'd to oblige 'em to break it, and exterminate that People as well as the rest: besides that they had all the reason in the world to fear their Rebellions and Revolts, supported by the Succours of their Neighbours, and the Pollutions of their Idolatry. Pretences sufficiently specious to have oblig'd 'em to break the Treaty. But in regard they had a sounder Idea of Publick Agreements and Compacts then we have, they thought they could not break it with a safe Conscience, and rather chose to expose themselves to the Inconveniences above specify'd, then to falsifie their Faith with those Infidels, wherein they positively obey'd the Motions of the Spirit of God, who hath several times declar'd himself the Avenger of those who after they have treated with Sincerity, have unexpectedly been surpriz'd by their Enemies, tho' they themselves were Infidels. Witness *Sultan Amurath* Emperor of the *Turks*, who relying upon the Peace which *Ladislaus* King of *Hungary* had solemnly sworn to, disbanded the Greatest Part of his Army. In the mean time *Ladislaus* over-rul'd by the Pernicious Counsel of Cardinal *Julian*, who told him, That he was not oblig'd to keep his Word with a *Turk*, entred the Sultan's Dominions, when dreaming least of any such Thing, and having constrain'd him to come to a Battel with such Forces as he could get together of a sudden, *Amurath* doubtful of the Success, as the two Armies were just ready to engage, Behold *Jesus Christ*, said he with a loud Voice, behold thy Christians combin'd together to my Ruine in defiance of Treaties. See here the Peace concluded and sworn to by them with my self. They have Sworn to it by thy Deity, and they have falsify'd it by their Perjury, and their foul Treachery. They acknowledg'd thee by their Oath, but they renounce thee by the Violation o' it. Now therefore, if thou art a God, avenge thy self, avenge me upon these Perfidious People, and let 'em see they are not to go unpunish'd, who offend thy Deity. The Issue of this Invocation was, that with

a Number of Men, much inferiour to that of the *Hungarians*, he utterly defeated 'em, and *Ladislaus* being slain in the Battel, he pursu'd his Victory so effectually, that he made himself Master of the Greatest Part of the Kingdom. And indeed all the World knows that the Law of Nations is the Principal Foundation, and that which chiefly authorizes Treaties of Alliance, Peace, Truces, Resignation, Compensation, and generally all other Things. So that if henceforward they must be look'd upon as Songs, adieu publick Tranquility, 'tis to no purpose to make any more; and Men must resolve to live in perpetual Wars, in an Eternal Anarchy and a Confused Mixture of Robberies, Plunderings and all manner of Wrongs and Violences, as was to be seen in *France* all the while the Civil Wars lasted. Which is certainly the most terrible Misfortune that can befall a Kingdom. Since then Treaties are the Foundations of Publick Tranquility upon which every one relies, it must be agreed that there is nothing more Sacred, and that a Prince who violates 'em, is guilty before God and Man of all the Blood shed in the Wars, and of all the Miseries and Misfortunes that attend upon 'em. And this is the Opinion of *Baldus*, who deems that Sovereign not worthy of his Crown, who refuses to observe not only the Treaties made by himself, but those also of his Predecessours. Nevertheless those Lawyers who have divid'd into this Question, whether a Prince be oblig'd by the Treaties of him that reign'd before him, have made a distinction. For if a Kingdom be not Hereditary, they have left it to him that succeeds, either to observe, or not to observe 'em as he thinks fit. *Quia in Successione Juris non veniunt Obligationes defuncti.* But if the Crown comes to him by Succession, they have decided the Point that he is bound by all the Treaties and Compacts of his Predecessour, and is ty'd to observe 'em as Religiously as he that made 'em. Which is also grounded upon the Disposal of Law, and the Constitutions of the Emperours, by which the Heir, as representing the Person of him that made 'em, is bound also to observe all the Contracts and Agreements which he made. *Et quod Heres in solidum defunctum representet, ex parte etiam pro parte representet, & pro partibus coheredum censeatur extraneus.*

We have Enlarg'd a little the more upon the Subject of Treaties and Contracts, because upon them it is, that the Rights and Interests of those Princes concerning whom we are now to discourse, are in good part to be determin'd, and for that it is of great Importance that every Body may be sensible how sacred they are, and how highly that Prince offends who flights 'em as things of little value, since they are positively founded upon the Law of God, and the Law of Nations.

Let us now come to Possession, which is the Sixth and Last Legal Title which Princes may make use of to justify their Dominion. Possession is a Title become just by Process of time, which renders that Legal, which Originally perhaps might not be so. This is that which all the Laws of the World are agreed upon, and have therefore fix'd a certain Time, at the Expiration of which all sorts of Titles are determin'd, and the Possession is Legitimated; which is absolutely necessary to secure the Estate of every Man. For but for this, any Litigious Person might come with Old Parchments, and disseize an unprovided Proprietor, who having lost his Writings,

tings, or by some other Accident, might not be in a Condition to defend his Right. And this would infallibly overturn the best Establish'd Families in the World, and open a Door to a world of Confusion and Disorder. The Law then did nothing but what is most just when it authoriz'd Possession. But if this Constitution be extreamly beneficial to private Men, it may be said to be absolutely necessary for Sovereigns. For if they disagree among themselves, the Publick will be sure considerably to suffer, and therefore 'tis of great Importance to remove all Occasions of their Disagreement.

However, in regard the Pretensions of Sovereigns are always of very great Moment, 'tis not just that they should be so narrowly prescrib'd as the Claims of Private Men. And therefore it is, that whereas for private Men, Thirty Years of Continu'd Possession suffices, in the Cases of Sovereigns and the Church, a Hunder'd Years are admitted: after which all Claims against the Possessor are determin'd to be Null and Void, and the Possession is adjudg'd Legal. This is the pure Law of Nations, against which there is no Contending without Brangling and Injustice; and it behoves all Princes in the World to submit to it, as they have all unanimously acknowledg'd except these Last Kings of *France*, who by vertue of an Obscure *Salick* Law, scarce known in the world, pretend, that whatever was united to the Crown, ought either absolutely or of right be unalienable; and above all the Laws of Prescription, that under that pretence they may be enabl'd to justify the Invasion of their Neighbours whenever they find an Opportunity. A thing which never made a noise till the Reign of *Francis I.* who made an Edict, by which all manner of Prescriptions, even those of a Hunder'd Years were declar'd of no Validity against him or the Demesnes of the Crown, and that they should be of no Force to Detain from him such Rights and Territories as depended upon him. And upon this Foundation it is, that the King of *France* at this Day reigning, believ'd himself to have a right to *Strasburgh*, *Luxemburgh*, the Dutchy of *Deux Ponts*, as being Dependencies upon his Crown, notwithstanding the Treaties which he or his Predecessours had made, and by which they renounc'd their Right to those Places. But in regard this Claim is of no Force, First, because it is an Innovation; Secondly, because it could not be establish'd to the Prejudice of Princes and Sovereigns, who no way depend upon the Crown of *France*, they can never want Justification in opposing it by Force of Arms.

The two last Titles which sometimes render Princes the Absolute Masters of Countries, are Conquest and Usurpation; if Usurpation may be rank'd in the Number of Titles; for no Usurper ever acknowledg'd it to be a Title. Nevertheless, in regard it is many times one of the Means made use of to arrive at Sovereignty, tho' it may be call'd by another Name, and defin'd it in two Words, in saying, that by Usurpation, we mean the different Ways of appropriating to themselves the Estates of Others, whether by Intreigues or Cabals, by Force of Arms, or False Titles.

Thus Conquest becomes a Real Usurpation, when it is not founded upon True and Solid Rights: nevertheless the *Roman* Church authorizes it against

against the Infidels *pro propaganda fide*, provided the Rapture of the Treaty proceeds from the Infidels and not the Christian Prince.

After this Explanation, we believe that there is no Body, how Illiterate soever, that will not easily distinguish between the Different Rights by us set down, and which are of Force and Validity, and those which are not so. To the clearing of which, we shall contribute also farther by the Reflections annex'd; wherein after the *Pro*, the Reader will also find the *Contra*.

To begin then with the Enquiry, which we ought to make into the Pretensions of the King of *France* to the Crown of *Castille*, we must say, that the first which are grounded upon the Will and Testament of Don *Alphonso*, King of *Oviedo*, in favour of *Charlemaign*, are of no Validity for three Reasons. The first is, that *Charlemaign* being Emperour, if *Castille* were to be incorporated into one of his Dominions, it would in all probability follow, that it must have been into the most noble, which was that of the Empire, and not the Crown of *France*, which was Inferiour to it, and which ought not to be look'd upon otherwise then as a Member of the Empire. Which is justify'd by the Partition which *Lewis the Debonair* made among his Children; in regard that always *Charles* did Homage to his Brother for the Crown of *France*.

But the Kingdom of *Castille*, neither holds of *France* nor the Empire, by reason of this last Will and Testament; because there was no reason for it during the stay of *Charlemaign* in the Kingdom, and for that after the Death of *Alphonso*, his Nephews succeeded, and yet 'tis no where to be found that ever they pay'd Homage to any Body. Moreover granting that this Right were good in its self, 'tis now lost by a Prescription of above 800 Years.

'Tis true, that the Claim by vertue of the Marriage of *Blanche* with *Lewis IX.* is of a later Date, however no benefit can now be made of it, because it is above four Centuries ago since that Marriage happen'd. But besides a Possession of so long standing, and so well secur'd by a Great Number of Treaties made between the Kings of *France* and *Spain*, wherein there was not a Tittle mention'd concerning these Claims, there are two Authentick Ones to be produc'd, by which they are absolutely renounc'd. The first is of the same *Lewis IX.* who marrying his Daughter *Blanch* to *Ferdinand de la Cerda*, Grandchild to *Ferdinand the Invader*, in the Year 1267. covenanted by the Contract, that St. *Lewis* should renounce to his Daughter *Blanch* and her Successours all the Right and Claim which he could pretend to have to *Castille*. And the second bears date in the Year 1290. between *Sanchez* King of *Castille*, and *Philip* King of *France*, by which he ratifies and approves the Renunciation which *Lewis* had made, and at the same time renounces all the Rights that he himself could pretend to.

The Claims of the King of France to the Kingdom of Arragon.

WHEN Charlemaign was call'd into Spain by Don Alphonso, King of Oviedo and Castille, as we have already said, he expell'd the Moors not only out of the Dominions of that Prince, but also out of Arragon, which at that Time was a very small Country holding of the City of Saragossa, which he gave with the Dependencies belonging to it, to Avilera, to hold it of him under the Title of an Earldom, performing Homage and Fealty; which he did all the Time that he liv'd. And upon this Investiture it is that the King of France grounds his first Right. But we never read that after his Death, either Joseph his Son, or Alarias his Son-in-Law, acknowledg'd any Superiour Power to the time of D. Fortunio Ximenes the last Count of Arragon, who marry'd his only Daughter Uraque to Don Alphonso, King of Navarr, about the Year 950. By which Marriage the County of Arragon was annex'd to the Crown till the Year 1034. that the King Don Sancho, to Recompence the Valour of his Second Son D. Ramira, who had in a publick Duel courageously defended the Honour of his Mother, who was accus'd of Adultery, gave him Arragon, which he caus'd to be erected into a Kingdom by the Pope; for which he did Homage, in acknowledgment of that Erection. And since that time the Popes have always pretended to the Sovereignty of Arragon.

The Second Claim of the Kings of France is grounded upon the Confiscation made by Clement V. in favour of Philip the Fair, of all the Knights Templar's Estates, after that Order was suppress'd by a Decree of the Council of Vienna in the Year 1310. And in regard that long before that time Don Alphonso, King of Arragon, had bequeath'd his Kingdom to those Knights by his Last Will and Testament, made at Bayonne in the Year 1132. there has been a pretence that Arragon ought to be comprehended among those Estates with which they had been gratify'd by the Pope, and which by Consequence belong'd to him. To which they added the Investiture which Pope Martin IV. gave to Charles of France in the Year 1282. to the Exclusion of Peter, Lawful King of Arragon, who was by him Excommunicated for being the Author of the Sicilian Vespers. And by vertue of this Excommunication, and after he had beaten Don Peter, made himself Master of the Best Part of his Kingdom. Nevertheless in a little time after, it return'd to the Family of the same Peter, who had been driven out of it, and they enjoy'd it above Two Hunder'd Years together without Interruption. Till Lewis II. Duke of Anjou came with a numerous Army to seize upon the Kingdom, which he claim'd in Right of his Wife Toland: and the Truth is, his Claim was very legal. But for the Reader's better understanding of this Matter we must set forth, that John, King of Arragon, the Son of Peter, surnamed the Ceremonious, reign'd Nine Years, in which time he was twice marry'd; first with Mathea, the Daughter of James of Armagnac, and by that Wedlock he had a Daughter, nam'd Joane, who dy'd young. His second Wife was Toland de Barr,

by

by whom he had *Yoland*, marry'd afterwards to *Lewis* Duke of *Anjou* before mention'd.

Now after the Death of King *John*, and his Daughter *Joan*, *Lewis* claim'd the Succession as next Heir, as we have said already; but *Sibilla*, Mother-in-Law to King *John*, who had a high Reputation in the Kingdom, and who had a Kindness for *Yoland*, caus'd *Don Ferdinand* of *Castille*, Duke of *Penafief*, to be chosen King, tho' he were no more then the Deceased King's Nephew. However, he was prefer'd before *Lewis* by the Grandees of the Kingdom, who seated him upon the Throne; which he so well defended by the Force of his Arms, that *Lewis* was constrain'd to return a Loser. From this same *Lewis* it is, that the Kings of *France* derive their Fourth and Last Pretence upon *Arragon*, because that his Son *Reginald* having made *Charles*, Duke of *Main*, who was Nephew to him, his Heir; he also, by his last Will and Testament, dated *December 11. 1481.* left the Inheritance to *Lewis* XI.

Enquiries into the Pretensions of the King of France upon Arragon.

WE have already said, when we discours'd of the Claim which the King of *France* lays to *Castille*, that there was no ground for reviving an old Investiture, which never had any Effect, and which besides that it was prescrib'd by a Period of above 800 Years, upon due Examination, could never be found to have been granted by the Donor as King of *France*, but as Emperour, and so can never be of any Validity. Now in regard the Dispute is here concerning the same Matter of Fact, the same Emperour, and the same Time, we shall say no more of it, but refer the Reader to what has been already said.

Let us therefore proceed to the more recent Claims. That which is grounded upon the Confiscation of the Knights-Templers Estates, granted to *Philip the Fair*, by *Clement V.* carries something a little more weight with it, but not sufficient to render it Effectual, besides that there are many Nullities in it. For First, the Pope had no Right to give away that Kingdom, besides that in regard it was not specify'd in the Bull, it cannot be said to be Comprehended therein. But the two stronger Reasons which utterly annihilate this Claim, are; that *Alphonso* could not make the Knights-Templers his Heirs to the Exclusion of his Brothers: and in the Second Place, the Knights-Templars themselves renounc'd all their Right to the Kingdom by the Treaty which *Raymond*, Grand Master of the Order, made with *Don Raymond Berrenger*, Son-in-Law to *Don Ramira*, King of *Arragon*; so that after they were suppress'd, they had no longer any farther Title.

'Tis true, the *French* will reply, that something may be said in answer to this: but what Reply will we make to the claim which our King derives from the Investiture granted by Pope *Martin IV.* to *Charles* of *Valois*, the Son of *Philip*? We shall answer, that the Popes have no Right over the Temporals of Princes; that whatever they have hitherto assum'd has been by pure Usurpation; which they might so much the more easily pretend

pretend to, because they were sure to have those Princes of their side, who were to be Gainers by the Investiture in the Estates of Others. And thus the Avarice and Ambition of some Princes, the weakness, forbearance, and permission of others, were the only Foundations upon which the Court of *Rome* erected her Unjust and Tyrannical Monarchy. However, great and Courageous Princes never acknowledg'd this Usurp'd Power; and we have no small reason to be surpriz'd, that the King of *France* should alledge a Donation so Chimerical, after those Propositions which he caus'd his Clergy to sign about twelve Years ago.

But some will say, that this is quite another Case. For *Arragon* is a Fief of the Church, and according to the Law, when the Vassal is become guilty of Felony, the Fief returns to the Sovereign by right of Reversion, and he may dispose of it to whom he thinks fitting. To which we shall answer once for all, that the Pope being a Bishop, neither ought nor can in any manner enter upon a Sovereignty; and as he never had a Right to enter upon the Temporalities of Princes, they are sufficiently warrant'd to shake off that Yoke whenever it lies in their Power. But to cut off all Objections and Replies, we need no more then cite the Treaty of *Clermont* in the Year 1260. between *Philip* the Son of *St. Lewis*, and *Don James*, King of *Arragon*, by which all the Claims that the Crown of *France* could lay to that of *Arragon*, were absolutely resign'd and releas'd, with a Discharge for the Future from all Reliance and Homage.

There remains then, only the Right of *Lewis II.* Duke of *Anjou*, who as Husband of *Yoland* of *Arragon*, ought to succeed *John* his Father-in-Law: but this Claim is deriv'd a little too far off to be of any value; the Kings of *France* not having been ever in Possession, but only claiming by virtue of a Will made by one that had meerly a bare Title, ground'd upon the Will of a Prince, who far from having reign'd and possess'd *Arragon*, pretended only to a Title in right of another; so that these Claims are deriv'd to the Crown of *France* only from Titular to Titular, and from Will to Will. But besides that the Centuries during which the Kings of *Arragon* have been in Possession, give 'em a Sufficient Title, which excludes *France* for ever, and all that pretend any Title from her, there is one more Reason that will admit of no Reply; which is, that *Lewis*, Duke of *Anjou*, and *Don Ferdinand*, King, or Usurper of *Arragon*, referr'd themselves to a Voluntary Arbitration, and promis'd to stand to the Decision of Nine Lords of the Kingdom, which they chose unanimously, viz. three of *Arragon*, three of *Catalogna*, and three of *Valencia*; who after a serious and mature Debate, gave the Crown to *Don Ferdinand*, by their Sentence pronounc'd in the Year 1415. which was confirm'd by Pope *Benedict XIII.* to whose Determination they referr'd themselves the Second Time. So that the Question was absolutely decided.

The Pretensions of the King of France to Catalogna.

FEW People agree upon the Time that *Catalogna* began to hold of the Crown of *France*. Some say, it was *Charles the Gross*, who erected it into an Barldom, and invested in it *Jeffery the Hairy*, about the Year 885. Others assert that it was *Charlemaign* who gave it to *Jeffery of Arrio*, which to me seems most probable; it being certain that *Charlemaign* conquer'd *Catalogna* in his march into *Spain*, as *Eghinar* reports. *Sibi subegit totum Montis Pyrenaei jugum, & usque ad Iberum Annem, qui Hispania Agros secans, ad Tarrasae urbis Moenia Balearico Mari miscebat.* However it were, 'tis sufficiently known, that till the Year 1131. *Catalogna* had always pay'd Fealty and Homage to *France*, and that all the Publick Acts were made in the Name, and dated from the Reign of the Kings of *France*. But *D. Alphonso* who reign'd about that time in *Aragon*, stomaching the paying of Homage to any Body, declar'd himself Independent, forbid the Notaries to make use of any other Date then that of the Year of our Lord, and from that time till the Year 1636. at what time the *Catalognians* revolted from *Philip the IV.* the French had never any Homage pay'd 'em from thence. But they pretend to have acquir'd a new Right by that Revolt, because the *Catalognians* observing the Usual Maxim of Rebels, which is to support themselves under the Protection of their Sovereign's greatest Enemy, deliver'd themselves up to the King of *France*, who receiv'd 'em. And they grounded the Occasion of their Revolt upon this, that by the Law of Union made by *James of Arragon* in 1326. of the three Provinces of *Aragon*, *Catalogna*, and *Valencia*, he granted *Catalogna* certain Immunities and Privileges, which being broken, the *Catalognians* shook off the Dominion of *Spain*, and made choice of another Sovereign. Whence the King of *France* concludes that their Delivering themselves up to him, was Legal.

Enquiries into the Pretensions of the King of France to Catalogna.

IS to no purpose to alledge the Ancient Rights; for besides that the French have a long time surceas'd to revive those Titles, and for that at the same Time that *Alphonso* shook off the Yoke, *Philip the August*, and *Lewis VIII.* seem'd to approve the Act by their Silence, by the same Treaty of *Clermont* also *Philip* resign'd to *James* all his Pretensions to *Catalogna*, as well as those upon *Aragon*.

The Second is more unreasonable: for 'tis an idle thing to say that the Law of Union could justify the *Catalognians* from revolting against their Sovereign; and the making use of such Pretences is an open and bare-fac'd Attempt to usurp what belongs to another. However, to speak properly, 'twas only by vertue of this Seditious Donation, that the King of *France* sent his Viceroys thither, who continu'd the Title also after the *Spaniards* had

had reconquer'd it, and that he sometimes still assumes the Title of Count of *Catalogna*: for as to his old Claim, 'tis too much superannuated for him to think any more of it. But neither is the one any Better then the other, seeing that the *Pyrenean Treaty* has most positively and clearly decided the Point by the 43d. Article, which contains a Renunciation at large, on the King of *France's* part to all his Pretensions to the said County and Principality.

The Pretensions of the King of France to Roussillon.

THE King of *France* lays two Claims to *Roussillon*. The First, as it is a Dependence upon *Catalogna*, by vertue of the Rights set forth in the preceding Chapter. And the Second, by reason of a Loan of 300000 Crowns which *John*, King of *Aragon* borrow'd in the Year 1462. and for which he Mortgag'd his said County of *Roussillon* to *Lewis XI.* King of *France*, who lent him the said Money to support the Charges of the War which he wag'd against the Kings of *Castille*, and his own Subjects that were revolted from him for the Bad Usage of his Son. And because that Summ was never repay'd, the King of *France* pretends that *Roussillon* remains under the same Engagement.

Enquiries into the Pretensions of the King of France to Roussillon.

IF *Catalogna* were duly resign'd to the Kings of *Aragon*, as we have already made it appear, 'tis past dispute that the Dependencies upon it were resign'd in like manner; so that there is no necessity of entring into any new discussion of that Point.

As for what concerns the Title of Mortgage, upon which the King of *France* erects his Claim by reason of the Loan of 300000 Crowns, it has been a long time quite out of doors, in regard that *Charles VIII.* releas'd it absolutely to *Ferdinand*, King of *Aragon*, to whom he resign'd the County *gratis*, to the end he should not molest him, during his Neopolitan Expedition, wherein he was more Fortunate then Prudent; seeing that he prov'd Successful, tho' he had neither Captain, nor Money, nor good Ministers; which evidently appear'd by this Idle Restitution; for which if *Charles* could not have obtain'd the whole 300000 Crowns, however he might have had a good part. *Comines* says, That there were two Franciscan Fryers, the own his Confessour, the other the Dutcheß of *Bourbon's*, that perswaded him to it, assuring him that the King his Father had so order'd it upon his Death-Bed, and that *Charles*, who was a Prince extremely good Natur'd, fell into their Snare. But in regard there is no likelihood that *Lewis XI.* upon his Death-Bed should entrust any other then his Son with his Last Will and Testament, there is as little Reason that he should suffer himself to be over-rul'd by a couple of Priests. We are therefore of *Mariana's* Opinion, who says, That it was the Bishop of

Albi, Charles's Tutor, who being brib'd by *Ferdinand*, prevail'd with him to doe it, perswading him that it was the only way to hinder the King of *Aragon* from invading *France*, while he was busi'd at *Naples*. However, it was a false Step in Policy, observ'd by all Historians. And in regard it was very Prejudicial to the Crown, the King of *France* thought that a Pretence sufficient to repair his Losses; and therefore it is, that he sets up this Claim among the best that he has, to the Dominions of the King of *Spain*.

We shall not trouble our selves to raise superfluous Arguments upon this Point. The Reader plainly sees that an Estate which has been resign'd *gratis*, is as good a Resignation as if the Resigner had receiv'd Millions of Gold. Nor will the Pretended *Salick* Laws in this case serve the King of *France's* Turn: For they did not forbid the Kings of *France* to lend Money to their Friend, but only that they should not alienate the Demesnes of the Crown. Now the County of *Roussillon* was never annex'd to the Crown, but only mortgag'd; which are two different Things.

The King of France's Claims to the Kingdoms of Naples and Sicily.

THE King of *France*, by vertue of his Titles to the two *Sicilies*, enjoys *Provence* at this day, which is a Dependence upon 'em. It is grounded upon three Heads; the first of which is, the Investiture which Pope *Urban IV.* gave to *Charles* the Brother of *St. Lewis* in 1262. to the Exclusion of *Conrad*, and *Conradin* the Children of *Frederick II.* Emperor and King of *Naples*, who rebell'd against the Holy See, and for that reason the Pope depriv'd him of his Kingdoms of *Naples* and *Sicily*, and gave 'em to *Charles*, who enjoy'd 'em till the Year 1281. at what time *Peter*, King of *Aragon*, who marry'd *Constance* the Daughter of *Manfred*, natural Son of *Frederick*, desirous to revenge the Death of *Conradin*, whose Head *Lewis* had inhumanly caus'd to be struck off, won to his Party a certain Person whose Name was *John de Procida*, who had been one of *Conradin's* Officers, and sent him to *Constantinople* to treat with the Emperour *Alexis*, about assisting him to drive the French out *Sicily*. After which *Procida* returning to *Messina*, counterfeited himself a Mad man, and when he met with the French, put the end of a long Trunk to their Ears, and told 'em any Idle Stories that came into his Head, and then play'd with a Quarter-Staff: but when he met with the *Sicilians*, he instructed 'em by means of the said Trunk, which way to shake off the Yoke of French Tyranny, and bid 'em Massacre all the French. And he manag'd his pernicious Design so cunningly, that it was put in Execution upon *Easter-Day*, in the Year 1282. about the Hour of *Vespers*. The next Year, *Peter* of *Aragon* was Crown'd there; since which time *Sicily* has been always a Dependence upon that Kingdom. However, *Charles D. of Anjou* and his Successour, reign'd at *Naples* for the space of 170 Years, which was to the Year 1435. at what time *Joan the H.* the last of that Race, dy'd. And from

from the Heirs of this House of *Anjou* it is, that the Kings of *France* derive their first Title to *France*.

The Other comes from another Queen *Joan*, who after that she had for several Years lead a worse then Licentious Life, with *Lewis* Prince of *Otranto*, *Otho* of *Brunswick*, and several Others, put to Death her Husband because he could not endure her Debaucheries. After which, she marry'd *James* of *Arragon*, Duke of *Calabria*, whom she likewise put to Death, and by these Infamous Crimes having incurr'd the Indignation of *Urban VI.* she put her self under the Protection of *Clement VII.* and by his permission she adopted and made her Heir *Lewis*, Duke of *Anjou*, Regent in *France*, during the Minority of *Charles VI.* his Nephew. But the *Hungarians* coming to *Naples* under the leading of *Charles de Duras*, besieg'd the Queen in the Castle of *Ovo*, took her and caus'd her to be Hang'd, to revenge the Death of *Andrew* his Kinsman and Brother of *Lewis* the Great, King of *Hungary*. After that, *Charles de Duras* made himself Master of the Kingdom, and kept it, both He and his Posterity, maugre all the Endeavours of this same Second House of *Anjou*, till the Year 1414. that *Ladislaus* dying, another *Joan* succeeded him, from whom the Kings of *France* derive their Third Title, because this *Joan*, who was a lewd Woman, and also a little craz'd, had adopted for her Son, *Lewis III.* Duke of *Anjou*, to the Exclusion of *Alphonso*, King of *Arragon* and *Sicily*, whom she had adopted before, but whose Adoption she had vacated, because he besieg'd, took her, and afterwards shut her up in the Castle of *Naples*. These are the Claims of *France* to this Kingdom.

Enquiries into the Pretensions of France to the Kingdom of Naples.

According to that Proposition which we have asserted, and which we are apt to believe that all the World, except the *Italians*, will agree with us, to be Infallible, That the Popes have no Power over the Temporalties of Princes, the Investiture of the Kingdom of *Naples* granted to *Charles*, Brother of *St. Lewis* by *Urban IV.* is absolutely void. *Frederick* was an Emperor, who held not of the Church in any respect; so that the Pope had no Power to dispose of his Dominions. This is an Axiom from whence all Kings and Princes are never to depart, if of Sovereigns as they are they have no mind to be reduc'd to the Degree not only of Subjects, but of Slaves; there being no Dominion in the World so Tyrannical as that of *Rome*. Let then this be said and granted once for all, to the end it may serve for a Rule for the future.

The Second Title which the King of *France* pretends to *Naples*, is not much Better then the First; for an Adulterous Woman and a Particide, such as Queen *Joan*, could never make a Donation valid in Law. Besides *Lewis*, who was the Person to whom the Donation was made, never posses'd any thing in *Naples*, which is a great Defect in a Title, especially grown out of Date. But suppose he had been a Reigning King in that Kingdom, shall the Kings of *France* engross to themselves a Title to inherit

all

all the Kingdoms that were upon a time possess'd by Princes of their Families. Add to this, that if the Pope's consent were of any necessity in such a Donation, because *Charles* the Brother of *St. Lewis* had made *Naples* a Fief of the Church, we may averr, that *Joan* had no such consent; for that of the two Popes, who then pretended to the Papal Chair at one and the same time, he who sat at *Rome*, was so far from approving her Conduct and her Actions, that he sent for *Charles de Duras* out of *Hungary*, to punish her Crimes, and Revenge the Death of his Uncle.

The Other *Joan*, who adopted *Lewis* the III. Duke of *Anjou*, was a Woman whose Conduct was no more to be commended then the others, She had for her Favourite one *Caradoceli*, that came from the Dregs of the People, whom she had advanc'd to the Highest Employments in the Kingdom, by whom she suffer'd her self to be wholly govern'd, and with whom she led a Scandalous Life in the Face of the Sun, that 'twas no wonder, if *Alphonso*, tyr'd out with her wicked way of Living, and knowing that she was not a Woman to be reform'd, caus'd her to be shut up in Imprisonment. It may be question'd also, whether she had the Right Use of her Reason; for in that case *Alphonso* could not be blam'd for doing as he did. Now the greatest Part of the Best Historians give us that Account of her. But tho' it were not so, the King of *France* has no reason to pretend to any Advantage from this Title, which as well in respect of this as the Kingdom of *Arragon*, descends to him only from a Titular Inheritance never possess'd, and that an Indirect one too, as being grounded only upon the two Wills and Testaments already mention'd.

But wherefore should we trouble our selves to refute these over Antiquated Titles, were they the best in the world in themselves. For have they not been annihilated by divers Resignations which the Kings of *France* have made in several Treaties? One of which was that concluded at *Noyon*, in the Year 1516. by which *Francis I.* King of *France* resign'd and releas'd all his Pretensions to the Kingdom of *Naples*, to the Emperor *Charles V.* 'Tis true, that there were other Things which were not perform'd, and it may be said, that by Consequence the Treaty remains Imperfect. But the Case is not the same in respect of the Treaties of *Madrid*, *Cambray*, *Crey*, and *Vervins*, which have confirm'd that of *Noyon*, upon that very Article; and particularly that Important Treaty of 1524. by which *Lewis XII.* renounc'd without any Exception for himself and his Heirs, all his Claims and Pretensions to *Naples*, in favour of the Marriage of his Niece *Germaine de Foix* with *Ferdinand* of *Austria*.

The Claims of the King of France to Navarr.

THE Crown of *Navarr* is one of the most Ancient in *Europe*: It derives its Original, according to *Petrini*, from *Hercules*, who after his Victory gain'd over the *Lominians*, lay'd the Foundations of this Kingdom; for which reason the Kings of *Navarr* boasted themselves to be descended from the Family of *Hercules*. However it were, this is Certain, that 'tis above 900 Years, since *Don Garcia Ximenes*, whom we have already mention'd

tion'd by the way, reign'd in *Navarr*; and that he was also honour'd by Pope *Zachary*, with the Title of *Most Faithful King*, to be borne by him and his Successours; in acknowledgment for that in Conjunction with *Charlemaign*, he had expell'd the *Moors* out of *Spain*, as appears by his Bull, dated in the Year 744. which begins, *Fidelissimo Regi nostro, Garcia Ximena, Regi Subarbie, Dilecto, &c.* Just as the Kings of *France*, for their Services done the Holy See, have obtain'd the Title of *Most Christian*, which was given em in the Council of *Orleans*.

The Crown of *Navarr* has likewise had this particular Advantage above all Others, that it never fell under Collateral Inheritance, every King having always left Issue behind him, either Male or Female, till this present time that their Race is continu'd in Monsieur the *Dauphin*, who has three Children living. For though he be not in possession of the Kingdom, that do's not hinder him from being descended in a direct Line, nor from having a great Interest in the Kingdom, grounded upon the next and lawful Inheritance. Which we shall make out, by saying, that *Charles III.* King of *Navarr* had but one Daughter, nam'd *Blanch*, who was marry'd to *John* King of *Aragon*. From which Marriage descended *Charles* of *Viana*, who was poison'd by *Joan* of *Castille*, his Mother-in-Law, and *Leonora* his Sister, who succeeded to the Crown, and was the Wife of *Gaston de Foix*. They had for their Daughter and Heiress *Catherine*, who was marry'd to *John d' Albret*. *Henry d' Albret*, King of *Navarr*, was their Son, who marry'd *Margaret* of *France*, Sister to *Francis I.* and from that Wedlock descended *Joan*, the Only Daughter and Heiress of the Crown. She was Queen of *Navarr*, Princess of *Boarn*, Countess of *Faix*, *Armagnac* and *Bigorre*, and was marry'd to *Anthony* of *Bourbon* Duke of *Vendome*, first Prince of the Blood, from whom descended *Hen. IV.* the Father of *Lewis XIII.* and Grandfather of *Lewis XIV.* now Reigning. By this Genealogy, is to be seen the Establishment of his Right to an Estate, which as yet he do's not enjoy. But instead thereof, he enjoys many others more considerable, which would not belong to him, if every Body had their own. So that when Restitution comes to be made, he must restore many fair Territories and Provinces, which he detains from the House of *Austria*.

Enquiries into the Pretensions of the King of France to Navarr.

AMong all the Pretensions of the King of *France*, we find none better fix'd then this, for tho' there be a Possession of above 150 Years that makes against him, nevertheless, because that neither he nor his Predecessors ever positively renounc'd it, therefore it appears to be so much the stronger; besides that *Philip II.* King of *Spain*, a Prince that was not of a humour to part with his Territories upon a Slight Account, upon his Death-Bed order'd his Son *Philip III.* by an Express Codicil, to restore this Kingdom to the House of *Bourbon*. 'Tis true, that he added, *In case the Restitution were no way prejudicial to the Catholick Religion, nor the Tranquillity of the Kingdom of Spain.* But these Reservati^{ons} did no way Enfeeble his Acknowledgment,

knowledge, that in good Conscience it did not belong to him. And indeed the Kings of *Spain* possess it by no other Title then by a Grant of the Pope, who Excommunicated *John d' Albert*, King of *Navarr*, and put his Kingdom under Interdiction, for the slightest and most Illegal Cause in the world. It was *Julius* the II. who at that time govern'd the Holy See: and because he hated *Alphonso d' Este*, Duke of *Ferrara*, but had a great Love for his Territories, he Excommunicated him, that he might make himself Master of 'em. *Lewis* the XII. King of *France*, who was his Father-in-Law, gave him Assistance both of Men and Money, which induc'd the Pope to declare him Excommunicated *ipso facto*, and to sollicite the *English* and *Spaniards* to make War upon him. But in regard they were to pass through *Navarr*, King *John* oppos'd 'em. Upon which, the Pope let flye his Thunders at him also, as adhering to the *French*, who were Friends to the *Ferraresi*. However, by vertue of this Excommunication, the *English* and *French* seiz'd upon his Country, as if they had had a firm Title to it, and shar'd it between 'em; and because it lay more convenient for the *Spaniards* then the *English*, they agreed together for the Summ of 500000 Crowns, which the *Spaniards* either gave or promis'd to give the *English*; in consideration of which Money, the King of *Spain* was to have the whole, except *Bern*, *Bigorre*, and some part of *Navarr*.

By what has been said, it appears that the King of *Spain* has no good Foundation for his Possession of this Country. Otherwise, we must grant the Popes those Rights which they with so much greediness cover, and allow 'em a Power to Expel Princes out of their Dominions, whenever they shall take a Fancy to shew their Authority, which would be the absolute overturning of all Apostolick and Episcopal Institution.

For the Spiritual Power of Bishops no way extends it self over the Temporalities either of Princes or Private Persons. This is the Doctrine of the Ancient Fathers, which is to be observ'd in their Writings, and which they preach'd as they had receiv'd it from the Apostles. Thus *Sylennius*, Bishop of *Ptolemais*, declares, That as a Bishop he had not power to condemn *Athanasius* to any Corporal Punishment, because it was a Privilege that belong'd solely to the Magistrates, and that all that he could doe by vertue of that Power which he had receiv'd from Christ, was only to excommunicate him: and every where he loudly exclaims against Bishops, who intrude themselves into Temporal Affairs and Jurisdictions, as altogether contrary to their Commission. In a word, that we may not enter any farther into this Controversie, 'tis sufficient for the Justification of our Assertion as to the Pope and his assum'd Jurisdiction in Temporals, that our Princip'e is founded upon the Old and New Testaments, upon the Fathers, upon ancient Practice, and upon Right Reason; all which forbid that the Ministers of the Church should entangle themselves in worldly Interests, which do but distract 'em from their Religious Duties.

*Pretensions of the King of France to the Kingdom
of Majorca.*

THE City of *Montpellier* was formerly an Earldom annex'd to the Crown of *Arragon*, by the Marriage of *Mary*, Countess of *Montpellier* with *Don Pedro*, which gave that Prince a means to be particularly acquainted with the Principal Persons of the Country, who were almost all of em *Albigois*; and he listen'd so attentively to em, that at length, convinc'd of the Doctrine which they taught, he embrac'd it altogether, and declar'd himself their Protectour against the *Croisade* which the Pope had publickly excited, with a Design to exterminate em, and of which the Count of *Monferrat* was the Head. But in regard that at that time, his Son, *Don Jaime* was a Student at *Montpellier*, and because that City was already fallen under the Power of the *Croisade*, they detain'd him Prisoner, and kept him very close till the Year 1213. at what time *D. Pedro* was slain at the Siege of *Moret*; after which, they restor'd the Son to his Liberty, and sent him into *Arragon* to take Possession of his Kingdom. Nevertheless, because that during his Imprisonment, he had had none but Monks for his Governours, they infus'd such a world of Superstition into his Mind, that he could never get rid of it afterwards; and more then that, during his Confinement, he made a Vow, That if it should please God and the Holy Virgin to restore him to his Kingdom, he would institute an Order for the Redemption of Captives, he would go on Pilgrimage to *Rome*; and do a world of other such things, which he afterwards perform'd; and more then that, he engag'd himself out of a pure Motive of Devotion, to conquer the Island of *Majorca*, which was possess'd by a *Moresco* King, whose Name was *Abobide*, and who by his Pyracies greatly infested the *Christians*. And indeed he prov'd very Successful in his Enterprize, for that after a Siege of fifteen Months, which he lay'd to the Capital City where the King of the *Moors* was kill'd, with the greatest part of his Men, who made a wonderful Resistance, he subdu'd the Island. Any other but *Don Jaime* would have enjoy'd his Conquest, and the Advantage which it brought to his Crown. But he, infatuated with his misguided Devotion, did Homage for his New Conquest to the Church of *Magellone* in *Montpellier*, and willingly made himself the Founder of it without any Necessity.

The Kings of *France*, who have always had an Eye upon what might turn to their Advantage, and would not let this Opportunity slip, without acting according to their own Interests, never gave over till they had found a way to get the City of *Montpellier* into their Hands, which they purchas'd at length in the Year 1447. of *Don Jago*, King of *Arragon*, together with *Majorca*, for the sum of 120000 Crowns. After which, they agreed with the Bishops of *Montpellier*, giving the Fief of *Poussan* and *Frescalin* in Exchange for the Sovereignty of *Majorca*, which they pretend to have been by that means and at little charges incorporated, or rather re-united to their Crown. For they say, that the Ground

upon which the Church of *Magellonne* is built belonging to them, all the Dependences that could be annex'd to it, appertain to them in like manner.

Enquiries into the Pretensions of the King of France to Majorca.

IT must be acknowledg'd that Bigottry in the Soul of a Prince, is a Weakness pernicious to his Territories, and prejudicial to his own Honour. 'Tis good for a Prince to be pious and devout; nay, it is necessary that he should be so. For without it, we hold it morally impossible that he should govern justly, prudently and gloriously. But in matter of Devotion, as in all other things, there is a certain Medium, a just Mediocrity, from which there is no deviating, without falling at the same time into some Extremity of Impiety or Superstition. A Bigot was never Politick: and indeed how should he be so? seeing that Policy is only to be acquir'd by Experience, Study, and Natural Parts; whereas Bigottry on the other side is the Daughter of Ignorance. Thus we always find that Bigots are always very ignorant; which immediately appears from hence, that they make the Fundamental and Essential Part of Religion to consist in Vinegar Faces, demure Countenances and minute Trifles, which for the most part are the most Unprofitable Things in the World. And these sort of People usually fall into all the Snares that are lay'd for 'em, and they that can but find a way to pretend either God or the Saints to be of their Party, shall make 'em do whatever they please without the least Examination. For proof of this we might cite Examples enough: but we shall not put our selves to the needless trouble of producing any more than this one that makes to our purpose.

Don *Jaimo* was one of these Persons devout in Trifles. He thought he should doe a Meritorious Act in offering to the Virgin *Mary*, to whom the Church of *Magellonne* is dedicated, the Sovereignty of *Majorca*; and never considering the Consequences that might attend it, which he foresaw so much the less, because it was in his Earldom of *Montpellier* wherein the Church was built, that he effected his Design. And 'tis most certain that in paying Homage after this manner to the Virgin of that Church, that he never had it in his thoughts, that the Kings of *France* would one day take their Advantage from it to make his Successours Feudataries and Homagers to their Crown: yet he ought to have foreseen the Inconvenience, and not to have put himself to the Trouble of giving Temporal Signiorities to the Virgin, who gave him no Thanks for Offerings that so little concern'd her. But in regard the Thing is done, let us examine whether *France* can assume a Lawful Right to the Kingdom of *Majorca*, by virtue of the Purchase which they made of the Earldom of *Montpellier*, and their Agreements with the Bishops.

We say he cannot: and we shall prove it by many Reasons, beyond Contradiction; the first of which particularly admits of no Reply; which is, that

That Don *Jaimo* did not do Homage for his Crown to the Bishop, but to the Virgin, and the Kings of *France* having never contracted with Her, all their Agreements became void, unless the Bishops of *Montpellier* have a Sufficient Deputation to shew from her; which we are apt to believe they have not. Moreover, considering things in themselves, there is so great a difference between a Homage pay'd to the Holy Virgin, who since her Glorification, never troubl'd her self with the Affairs of this World, at least like a Person that had Lands and Tenements here, and that other Homage which Men are oblig'd to pay to such a King as the King of *France*, whose Dominion was never very gentle toward Feudataries, that Common Sense and Reason will never admit that such a Fief should be alienated from the One to the Other. And if we have no written Law to quote upon this Point, because the Case being altogether Extraordinary the Legislators never be-thought themselves of framing any Constitutions in this particular, nevertheless we have the Divine Law which is offended by this Pretension. The sole Question is then to know, whether Don *Jaimo* pay'd Homage to the Virgin or the Bishop; for the Dispute is not well as yet decided. However we are apt to believe, that we may boldly assert, that it was to the Saint, and not to the Bishop, who was his Subject by right of Birth and Patronage of the Church, which always belong'd to the Kings of *Aragon* in the Territories and Countries under their Obedience: so that he must have been the Subject of his Subject; which is absurd. Nor do's it behove the *French* to ridicule this manner of paying Homage to the Virgin: for tho' indeed there be a great deal of Simplicity in the Ceremony, nevertheless the *French* Kings were they that introduc'd it. *Lewis* the *Debonair*, being the First that ever thought of it, gave the City of *Strasburgh* with all its Dependencies to the Virgin; and *Lewis* XI. desirous to imitate him, far surpass'd him, for he pay'd Fealty and Homage for the City of *Bologne* to the Holy Virgin before her Image, his Head bare, without Girdle or Spurs; and gave her as an Acknowledgement of the Tenure by which he held of her, a Heart of Massy Gold, engaging himself and his Successors to be her Vassals for the said City of *Bologne*; nevertheless, we never read that the Bishops ever pretended by vertue of that voluntary Homage, to assume any Sovereignty over the King of *France*. There were others also that follow'd the Example of these two Princes: and thus *Demetrius* King of *Russia*, offer'd his Kingdom to St. *Peter*, and *Stephen* King of *Hungary*, surrender'd his Kingdom to the Holy Virgin.

Nevertheless, let us suppose a Thing that never was; that it was not to the Virgin that Don *Jaimo* pay'd Homage for his Kingdom, but that he annex'd this Noble Right to the Church, and the Governours of it, it would not follow thence, that it belong'd to the Bishop, but rather to the Curateship of the Church, which is seated within half a League of the City, upon the Gulph of *Leon*, at present no more than a bare Parish. If they object to us the Superiority of the Bishop over the Curate, who seiz'd it by a Sovereign Right preferable to that of his Inferior, We answer, That this Right ought to return to the Pope, who is as much Superior to the Bishop, as the Bishop to the Curate, and so it came to pass that the Kings of *Majorca* should hold of no Body but the Pope, upon whom they already

depended for their Kingdom of *Aragon*. But these Dependencies upon the Pope are only fit to be laught at, he having no Authority over the Temporalities of Princes, as we have asserted and prov'd. To all these Reasons then we shall add two more: the First is Possession, which secures the Rights of the Kings of *Spain*; and the Second is, that tho' it were true, that the Bishop had been made real Sovereign of *Majorca*, he could not have had any Right to have alienated that Sovereignty for two Reasons; the one, for that according to the Law, the Estates of the Church cannot be alienated; and the second, because that Devotion being the Motive to Don *Jaimo's* Donation, it tacitly imply'd the Condition, that the Bishop could not resign his Right to any Prince whatever, much less to the King of *France* then to any other, considering the Difference between One Lordship and the Other.

Pretensions of the King of France to Sardigna.

S*ardigna* is an Island in the *Mediterranean* Sea, erected into a Kingdom by Pope *Boniface*, who invested in it Don *Jago*, King of *Aragon*, upon Condition that he should conquer the *Moors*: after which Don *Pedro* having incur'd the Indignation of Pope *Martin* the IV. by reason of the *Sicilian Vespers*, he declar'd the Kingdom of *Sardigna* forfeited by him, as well as that of *Aragon* and his Other Territories, and invested in em *Charles* of *France*, the Son of *Philip*, in the Year 1282. Nevertheless, *Sardigna* never fell under their power, for that the Kings of *France*, tho' pretended Heirs of *Charles*, made so little reckoning of that Investiture, that *Philip* to acquire a Better Title, purchas'd the Island of *Jago* of *Aragon*, together with the County of *Montpellier* in 1347. But because there was but one part of the Money pay'd, therefore the King of *Aragon* relinquisht no more then one part of the Bargain, which was the City of *Montpellier* and the Dependencies upon it. However in the Year 1462. it was a second time mortgag'd to the King of *France*, with the Earldom of *Roussillon*, for the Summ of 300000 Crowns, and since that, they have pretended the same Right both to the One and the Other.

Enquiries into the Pretensions of the King of France to Sardigna.

THO' the Popes Investitures are as bad Titles as any that can be pretended to, and that the *French* know very well how to baffle em, when they are not made in their Favour, nevertheless they make no Scruple to urge such Titles every day; which only proceeds from a Partiality never to be Excus'd. For in this case Princes must agree among themselves, whether the Right of Investiture by the Popes be valid or no, to the end the Question may be absolutely determin'd. In the mean time, till this Dispute be decided one way or other, we shall always assert, that Investitures granted by the Popes are void and of no Effect, by vertue of that Natural Axiom, which says, that *No Man can give away that which is*

none

none of his own. Now then the Popes not being Original Sovereigns of all these Provinces, therefore they have no power to dispose of 'em.

As to the Sale of *Sardigna*, made by *Jago* King of *Arragon* to *Philip* of *France*, it could give him no Title to it, because the Price agreed upon was not pay'd. The Title then which the Kings of *France* might seem to Urge upon better grounds, is the Mortgage of *Don Juan* of *Arragon* to *Lewis* XI. But in regard it was resign'd and releas'd Voluntarily and gratis, together with the County of *Roussillon* by *Charles* VIII. to *D. Ferdinand* who took Possession of it again, and for that the Kings of *Spain* have been ever since in Possession of it, it may well be said that the King of *France* has no more to do with it.

Pretensions of the King of France to Milanois.

According to the Pretensions of the King of *France*, the Dutchy of *Milan* is a Dependence upon that Crown. The Title comes by the Marriage of *Lewis* of *Orleanse*, the Son of *Charles* V. with *Valentina Galeazzi*. She was the Daughter of *John Galeazzi*, who had Three Children, *Giovanni Maria*, *Philip Maria*, and her self.

Giovanni Maria succeeded his Father, and after he had rul'd Nine Years, dy'd without Issue, and left the Dukedom to his Brother, who left behind him no Children neither. So that after his Death, *Valentina* pretended to the Succession; as well for that she was the Next Heir, as by virtue of her Contract of Marriage; by which it was covenanted, That if *John*, and *Philip Maria* deceased without Heirs Males, she should succeed to the Dutchy, both she and her Heirs. But her Husband, the Duke of *Orleans*, being kill'd at *Paris* by the Duke of *Burgundy's* People, and *Charles* his Son a Prisoner in *England*, where he was detain'd for Five and twenty Years together, he could not exert his Claim. Which gave *Francis Forza*, a Soldier of Fortune, and who being also the Duke of *Milan's* General, had marry'd a Natural Daughter of his, an Opportunity to make himself Master of the Capital City, and afterwards of the best part of the Country, except *Cremona* and *Piacenza*, of which the Venetians had possess'd themselves. However, the Dukes of *Orleans* preserving still their Claim, made some Attempt in the Reign of *Charles* VI. And *Lewis* XII. being come to the Crown, the Marriage of his Daughter *Claudia* with *Charles* Arch-Duke of *Austria*, the Emperor *Maximilian's* Grand-child was agreed to; who, upon that Consideration, granted him two Investitures, the one in 1500, the other 1509. And after that, *Milan* fell under the Dominion of the King of *France*, by Force of Arms, at two several times; and *Francis* I. gave an Investiture of the Dutchy to *Francis Forza*, the Usurper's Grand-child; from whence they derive their Title to this Dutchy.

*Enquiries into the Pretensions of the King of France
to the Dutchy of Milan.*

AS there is nothing more natural than the Succession of Children to their Parents Estates, a Man would think, at first, that *Valentina's* Title were well grounded; and that she had a terrible Injustice done her, in giving the Dutchy to the Husband of a Bastard, to the Exclusion of her and her Heirs. But these fair Shews all vanish from him that will but give himself the trouble to enter into the Discussion of the Matter. *Valentina*, 'tis true, was the Legitimate Daughter of *John Galeazzi*, Duke of *Milan*; and besides this Right of Blood, *Galeazzi* had made her his Heir, by his Contract of Marriage. But at the time that the Emperor *Wenceslaus* erected *Milanois* into a Dukedom, that he invested in it *Galeazzi* himself, it was as it were a Male Fief; to which the Daughters could not succeed, and which by consequence devolv'd again to the Empire, after the Death of *Philip Mariv*, notwithstanding the Clauses in the Contract of *Valentina's* Marriage, which could not be valid in that respect, as not being ratify'd by the Emperor. 'Tis true, that it was made during the Vacancy of the Empire; and that Pope *Benedict XIII.* taking the Advantage of that Conjunction, to assume to himself an Authority that no way belong'd to him, had approv'd it. But 'tis visible, that that same Approbation was no other than a begg'd and useless Thing, the Pope having no Right to make any Decision in the Case. 'Twas the Emperor *Frederick* then to whom they ought to have afterwards address'd themselves, for the giving his Consent, and ratifying the Clause which concern'd the Succession. Now, in regard he did not do it, but rather was so far from it, that he Disapprov'd the Thing, and granted the Investiture of the Dutchy to *Francis Sforza*, 'tis as clear as day, that *Valentina's* Title could be of no force. However, *Lewis XII.* being of another Opinion, march'd into *Italy* with a powerful Army, besieg'd *Milan*, and being Master of the Place, took *Lodowick Sforza*, and carry'd him away Prisoner into *France*, where he dy'd in the Tower of *Loches*, and by that violent means *Milanois* fell into his Power; and the Children of *Lodowick* were constrain'd to fly into *Germany*, where they put themselves under the Protection of *Maximilian I.* who receiv'd 'em honourably, but not so kindly as to undertake to restore 'em to their Dominions: quite the contrary, he granted to *Lewis* the Two Investitures before-mention'd, upon which the King of *France* grounds his Second Title. But there are Two Reasons which admit no Reply, that utterly annul 'em. The First, is, Because the Emperor could not invest *Lewis XII.* the Invader of his Territories, to the Exclusion of the Lawful Princes who had never rebell'd against him, nor had ever given him any Occasion of Complaint. The Second, is, Because those two Investitures were not granted, but in Consideration of the Marriage which was concluded between *Charles* the Grand-child of *Maximilian*, and *Claudia* the Eldest Daughter of *Lewis*, as it is expressly set down in the Acts. And because the Match never came to any thing, 'tis most certain, that

that the Investiture could be of no Validity. And this would be a thing beyond all Controversie, if *France* would but do her self Justice; but she is not for that sort of Conduct. For which Reason, there is no question to be made, but that as frivolous as her Title is, she will be endeavouring to make the best of it, upon all Opportunities that shall offer; though she has already formally renounc'd it, not only by One, but by Four Treaties, which are those of *Madrid*, *Cambray*, *Crespi*, and *Vervins*.

Pretensions of the King of France to the Dutchy of Luxemburgh, and the Earldom of Chini.

Lewis Duke of Orleans, Brother to *Charles VI.* and the same who espous'd *Valentina Galeazzi*, (as *Monstrelet* says) purchas'd the Dutchy of *Luxemburgh*, which contains Four and twenty Cities. This is all the Claim that the King of *France* can build upon: for it is above Two hundred Years ago, since it fell to the House of *Burgundy*, by the Resignation of *Joanne de Grenich*, Dutcheß of *Luxemburgh*, made to Duke *Philip*, in 1443. who had assisted her against her Subjects that had expell'd her out of her Dominions; and because she had not Strength sufficient to maintain her Right, she chose rather to make an Agreement with the Duke, who allow'd her a Yearly Pension of Ten thousand Crowns, during her Life. Since which time he enjoy'd it, and the Kings of *Spain* after him, till of late Years, that the King of *France* seiz'd upon it.

As for the Earldom of *Chini* in particular, we find in the Decree of the Chamber of *Metz*, dated *May 20. 1682.* the Pretences by virtue of which the King of *France* declares it to be annext to his Crown: and though there are several, we may reduce 'em to Three, which are the principal. The First is, Because the Earldom of *Chini*, with the Signiories, Appurtenances, and Dependencies belonging to it, were always under the Protection of *France*. The Second, is, Because the Earldom is a Fief holding and depending upon *Bar*. And the Third, is, Because the People have all along resorted for their Law Affairs to *Montmedy*; which City belonging to the Crown, the Dependencies also belong to it. Upon these Three Points are grounded all the Pretensions of the King of *France* to the Earldom of *Chini*.

Enquiries into the Pretensions of the King of France to the Dutchy of Luxemburg, and Earldom of Chini.

WE shall not trouble our selves thoroughly to examin the Three Propositions contain'd in the Decree of the Chamber of *Metz*. 'Tis a Discussion which we leave to the Lawyers: only we must say, by the bye, That as to the First, the King of *Spain* expressly denies it; nor does he believe that the *Sieur Ravaux*, how diligent soever in his Enquiries, can ever make it out.

As to the Second, tis true, that one half of the Earldom of *Chini* held a long time of the Dutchy of *Barr*. But the Dutchy pay'd Homage also to *Luxemburgh* for the Castellanships of *Marville* and *Arancy*, for *Conflans* in *Garnesi*, and the Lordship of *Marri*. But because this reciprocal Holding was inconvenient to the Lords, they have several times made Exchanges and Compensations. Among others, by the Treaty concluded in 1342. between *John* King of *Bohemia*, and Duke of *Luxemburgh*, and *Henry*, Count of *Barr*, and several others. And this Affair was absolutely determin'd by the Treaty made afterwards between *Charles II.* Duke of *Lorraine*, and *Philip* King of *Spain*, in 1602. by which they release to each other all Claims and Pretensions, the one to the Earldom of *Chini*, the other to the Dutchy of *Barr*.

The Third Proposition is not worth the trouble of making any stay upon it. For in short, not to spend time in proving that the People of the County of *Chini* went for their Law to *Beaumont*, and other Places, before they resorted to *Montmedy*, is it not a ridiculous thing to plead, That because a City which gave Law to a Country is dismember'd and alienated from it, therefore all the rest of the Country must follow that Alienation? By this Rule, the King of *France* need do no more then seize upon *Malines*, which would be an Enterprize of no great difficulty, and so he might gain all the Spanish *Low-Countries* at one stroke.

But to cut all these Arguments short off, we need no more then refer to the Treaties made, first of all between *Lewis XI.* and *Philip the Good*, Duke of *Burgundy*, in 1414. by which, he releases and resigns, for ever, to the said *Philip*, his Heirs, and all others claiming under him, all his Rights, Titles and Pretensions whatever to the Earldom of *Chini*, and *Luxemburgh*. And those other Treaties made by *Francis I.* and his Successors, at *Madrid*, *Soisson*, *Cambray*, *Crespi*, and *Vervins*.

Ancient Pretensions of the King of France to Flanders, with the Four Dutchies and Signiories belonging to it.

THE Original of this Pretension derives it self from the Marriage of *Judith* the Daughter of *Charles the Bald*, King of *France*; who after the Death of *Richard* King of *England*, her first Husband, passing thorough *Flanders* in her Return home to her own Country, was violently taken away by *Baldwin*, Great Forester of *Flanders*; who afterwards marry'd her, partly by Force, and partly by Consent. Which coming to *Charles's* Ear, he was so far from being offended at it, that he erected *Flanders* into an Earldom, in favour of this Marriage, and invested in it his Son-in-Law *Baldwin*, upon Condition that he should hold it of the Crown of *France* as a *Movant Fief*. And since that time, all the Earls have pay'd Homage and Fealty for it to *Charles V.* who did Homage in his Proper Person to *Francis I.* This is what concerns the Sovereignty. But since the Marriage of *Mary Teresa*, the Daughter of *Philip IV.* King of *Spain*, with *Lewis XIV.* King of *France*, he has pretended that this Country belongs

longs to him by Propriety, and that it devolv'd to him by the death of Don *Balthazar* her Brother. Which we shall explain in a Chapter by it self.

Enquiries into the Pretensions of the King of France to Flanders, and the Four Duchies and Signiories belonging to it.

THESE Claims were formerly very good, but they are now quite out of doors. *Francis I.* having resign'd and releas'd 'em all by that famous Treaty of *Madrid*, which we have cited already many times, as being the most Important that has been concluded in many Ages, and that by which *France* renounc'd all her Pretensions to the Dominions of his Most Catholick Majesty. We know well, that the French hold that Treaty to be void, because King *Francis* was then a Prisoner when he concluded and sign'd it; grounding their Argument upon this Foundation in Law, *Velle non creditur, qui detinetur*: for which reason, so soon as he return'd into *France*, he protested against this Treaty in an Assembly of the States-General. But if this Maxim ought to be admitted, That Kings, when Prisoners, can make no Resignments of any Validity, 'tis in vain to Treat with 'em, (as *Tacitus* says very well :) It behoves the Victor to detain 'em in perpetual Imprisonment, to conquer their Dominions, absolutely to dispossess 'em; and of Sovereigns, that they were, to make 'em wretched Captives, in Imitation of the ancient Pagans. Or else, since there is no reaping any Advantage by taking Prisoners, we must make War without giving Quarter; and kill, without Mercy, all that fall into our Hands by the Chance of Arms: and then we shall see which is the best and most equitable Maxim; either that which authorizing the Alienations which a Prisoner makes to obtain his Liberty, restores, by that means, Peace and Union to his Dominions; or that which by abrogating and declaring 'em void, authorizes their utter Subversion, and constrains the Victor to render his Victory odious to all Humane kind, by the Massacre and Butchery of the Vanquish'd. But though upon those Principles the Treaty of *Madrid* should be counted invalid, the same cannot be said of those of *Cambray*, *Crepy in Valois*, *Chateau en Cambresis*, and *Vervins*, which were all made and concluded out of a pure Effect of the Frank and Free Will of the Princes contracting; which nevertheless confirm'd that of *Madrid*, some in the Whole, and some in Part.

New Pretences of the King of France in Right of the Deceased Queen his Wife, to the Dutchy of Brabant, Malines, Antwerp; the Upper Guelders, Namur, Limburg, Dalen, and other Places beyond the Meuse, Haynault, Artois, Cambray, Burgundy, and Luxemburg.

AT length we are come by degrees to the most Important Chapter of the Pretensions of the King of France. For if these are good and firm, there's no occasion for turning over Authors, or rummaging old Records to search after Confutations of Ancient Claims, seeing that by vertue of New Ones, he shall reunite to his Crown not only the Sovereignty, but the Propriety of all the Dominions of his Most Catholick Majesty. Nevertheless, in regard this Difference has already afforded Matter for several Volumes that have been written on Both sides upon this subject, we shall not undertake to handle it *ex professo*, only we shall lay down the Matter of Fact such as it is; after which, we shall Explain in few Words the State of the Question; without engaging in an Examination, which is usually attended with many Replies and Repoynders on both sides.

Philip, Prince of Spain, who was afterwards the Fourth King of that Name, upon the 18th. of October, in the Year 1615. marry'd the Princess Elizabeth of France, the Daughter of Henry the Great, who gave her in Dowry the sum of 500000 Crowns in Gold, and 50000 Crowns in Jewels. Besides this, Prince Philip, by way of Augmentation and Settlement, made an Addition of One hunder'd sixty six thousand, six hunder'd sixty six Crowns in Gold, making in all seven hunder'd and sixteen thousand, six hunder'd seventy six thousand Crowns in Gold, which by the Contract of Marriage were declar'd her own, to her and her Heirs.

Elizabeth dyed the 16th. of October, 1644. and left two Children by that Wedlock, Don Bathazar and Maria Teresa.

Afterwards Philip marrying a second Wife, which was Maria Ann of Austria, had by her three Male Children, two of which dy'd young, Charles the Third is still living, and at this Day reigning over the Estates of the deceased King his Father, as the presumptive and only Heir of the Crown.

But Lewis XIV. having in the Year 1660. espous'd the Princess Maria Teresa, pretended that she was Heiress, and that her Right was Prior to that of her Brother over all the Provinces which we have enumerated at the Beginning of this Chapter; and that, because of a certain Right of Devolution settl'd in those Countries by Custom. By vertue of which the Children became Proprietors of the Estates of their Father and Mother upon the Decease of either of the two, the Survivor having no Right to sell or engage 'em. The Words of the Custom in Brabant upon this subject, are these: *If a Man and a Woman have Children, and the one of them happens to dye, by the separation of the Marriage the Propriety of the Fiefs descending in Right of the Longer Liver, passes to the Child or Children born of the same*

same Marriage, and the Longer Liver has no more then a *Usufructuary* Right to the same Fiefs.

The Custom of *Malines* also is more opposite to Fathers and Mothers then that of *Brabant*. For that runs after this manner, If the Husband or the Wife dye, leaving Children, the Propriety of the Fiefs shall remain to the Children, and the Survivor of the Marry'd Couple shall only have the *Moiety* of the Ordinary Revenues, over and above the Extraordinary Profits and Casualty of the Patronage of the Fief.

The Customs of *Gueläres*, *Namur*, *Hainault*, *Artois* and *Cambray*, are very little different from those which we have cited, and we grant that they concurr all to one end, which is to prefer the Children of the first Venter before those of the second in the Succession to Patrimonies, and to grant 'em the Propriety of 'em after the decease of one of the Marry'd Couple. The Custom of *Burgundy* differs in this, that it gives to all the Children Male or Female an Equal Portion of the Parents Estates; and that of *Luxemburgh* allows to the Males in the Partition a Proportion double to that of the Females. So that by vertue of these Customs a third part of *Franche Conte*, and a Fourth part of *Luxemburgh* would belong to the Dauphin, in Right of his Mother.

As for the Dutchy of *Limburg*, he demands it as a Dependence upon *Brabant*, the Custom of which Country makes for him; it being certain that according to his Laws, all the *Low-Countries* devolv'd to Don *Balthazar* and *Maria Teresa*, after the Death of their Mother *Elizabeth*, and that by the Decease of Don *Balthazar* which happen'd two Years after, *Maria Teresa*, his Presumptive Heiress, became seiz'd of the whole Propriety of the said Countries, the *Usufruit* remaining only to *Philip*, who dying, ought to have left her the sole Lady and Patroness of All.

Besides this, the Dauphin demands the Dowry, the Jewels and the Augmentation of the Princess *Elizabeth*, his Grandmother by the Mother's side; amounting as we have said, to the sum of 716666 Crowns in Gold, as also 500000 Crowns in Gold, granted to his Mother for her Dowry, making in all 1216666 Crowns in Gold; besides Arrears, which amount to a vast sum more.

These are the Pretended Rights escheated to Monsieur the Dauphin, the Validity of which not being allow'd in *Spain*, his Father began the War in 1667. and entring into *Franche Conte*, seiz'd upon Half of it in less then two Months. However it was restor'd by the Treaty of *Aix la Chapella*; but he retok it in the last War, since which time it could never be regain'd out of the Hands of the French.

*Enquiries into the New Pretensions of the King of France
in Right of his Wife, to the Dutchy of Brabant, Malines,
Antwerp, &c.*

WE read that in former times the Sovereign Cities of *Greece*, that they might maintain Peace and Union among themselves, set up certain Judges, call'd *Amphyctions*, to whom they referr'd the Amicable Decision of all their Interests. 'Tis an unhappiness that the Princes at this Day either cannot, or else are unwilling to doe the same Thing. We should not then behold whole Countries cover'd with Soldiers, the Country-man Ruin'd and Pillag'd, the Citizens overwhelm'd with Taxes and Impositions, the Nobility disabl'd from Supporting the Grandeur of their Condition, and all *Europe* in general groaning under Oppression and Misery. But what could such weak and impotent Judges doe? for Princes have already a Supream Judge above 'em, whose dreadful Judgments they have reason continually to fear; yet for all that, they will be always making unjust Wars. What then, could Men be able to do that they have neither Force nor Strength to punish? It were rather therefore to be wish'd, that Princes would be Righteous Judges of their own Causes, do Justice one to another, act Sincerely among themselves, and Religiously and Piously observe the Treaties which they make, and forbear to make such diligent Scrutinies after Frivolous Pretences to break 'em. If the King of *France* had ever well relish'd these Maxims, and made choice of them for the Rule of his Conduct, he would never have set up these Pretensions to the *Spanish* Crown, after the Death of the King, who in all outward appearance is not like to have any Children, much less be liable to any such Forfeitures of his Rights in the *Low-Countries*. He cannot be said to have any Shame or Moderation to go so palpably and so directly against a Treaty so solemn and so sacred as the Contract of his Marriage, within Five or Six Years after it was concluded. Let his Admirers say what they please, the King of *France* can never justify a Proceeding so unjust. Had not the Dispute been in his Reign, but that the Dauphin only had gone about to re-demand his Mother's Rights, it would not have been altogether so Strange. But for Him Himself who made the Agreements, who worded every Article so punctually as not to leave the least occasion for any doubt, and caus'd 'em to be ratify'd in all his Courts of Justice throughout his Kingdom, for him to retract from what he had agreed to, and relinquish'd, and to declare to all the World, that at the time when he treated and made his Concessions, that 'twas only with a design to stand to nothing of Treaty and Agreement, and to cheat his Father-in-law and his Uncle, is a Thing that would hardly be believ'd, were not the Sun it self a Witness of it. But that we may come close to the matter, it behoves us to let the Reader know, that the Question consists in two Principal Points. The first is, Whether the Infanta *Maria Teresa* were really and *de facto* Patroness and Lady of the *Low-Countries*, and whether the Right of Devolution were

were in Her: And the second, Whether the Renunciation which She and the King of *France* made, be of any force.

'Tis a wonderful thing, that the *French*, who so loudly cry up the Union and Impossibility of dividing the Estates particularly in their own Right, yet would absolutely destroy the Right of *Spain*, by subjecting her King to the Local Customs of Countries that depend upon their Crown, as if the Sovereign of so spacious, so puissant and so August a Monarchy were oblig'd to be govern'd by the By-Laws of a thousand Petty Jurisdictions that are subject to it. For if they will not admit of Dependency in Custom, with respect of the Members to the Body of the Monarchy, no more is it to be admitted with respect of the Parts of the Members to the Whole, and by that means in two or three Generations, the most Potent Kingdoms will be divided into above a hunder'd Parcels. This, if you would believe 'em, would be the True way in a short time to make *France* the Mistress of *Europe*, and of all the World, for that she would have the only Privilege never to be divided. Nothing is so unreasonable as this Proposal; nor do's it deserve a Refutation. Nevertheless, that they may not ground any Pretence upon our Silence, we must say, That Customs are no other then a Usage establish'd by particular Persons, with the Permission and Good Will of the Prince, and which in process of Time obtains the force of a Law among 'em; but not in regard of the Sovereign, to whom Subjects have no Right to prescribe Laws, So that when ever such Laws are reduc'd to a Settlement, 'tis always done by the Prince's Permission, and they have all along reserv'd their Sovereign Right and Authority. As is notoriously to be seen in that of *Lovain*, wherein the King makes this Reservation, *without Prejudice to the Kings Rights and Prerogatives*: and in that of *Brabant*, wherein this Clause is inserted, *without Prejudice to our Prerogative and Authority*. 'Tis in vain then to urge these Customs, and to deduce from Them a Right to dismember the Dominions of the Most Catholick King. The Crown of *Spain* has her Customs, whereby the Males are prefer'd before the Females in the Succession to the whole Monarchy, which is not to be divided. If they ask me for a Copy of this Custom; we answer, 'tis written upon the Back of the Original of the *Salick Law*, and much clearer in History, which has confirm'd this Truth beyond all Contradiction. Since then this Order has been always observ'd, why would they have the King of *Spain* to alter it now, in favour of the King of *France*. Is he so much beholding to him, that he should so liberally give him his Dominions, and alienate his Estates to advance the *French* Monarchy?

The Injustice of the King of *France*'s Pretensions, is so much the more visible by how much they appear to be ill concerted. For supposing, as he do's, that Princes ought to regulate themselves according to the Customs of the Countries to which they desire to succeed, why do's he demand the Dutchy of *Limburg*, *Antwerp*, *Brussels*, the Country of *Rien*, the Territory of *Turnhout*, *Hoockstraten*, and *Nivelle*, the Customs of which Countries are directly opposite to him? And if he pretends, that all those Places being Dependencies upon the Dutchy of *Brabant* ought to follow the Customs of that Dutchy,

Dutchy, why will he not that the same Dutchy, being a Dependence upon the Crown of *Spain*, should be inherited and held according to the Customs of *Spain*? This speaks it self without any need of a Commentary. But let us suppose for a minute, that the Succession to *Philip IV.* in *Brabant*, ought to have been regulated according to the particular Customs of that Country, in what History is it to be found that the Daughters of the first Center, or otherwise, were ever prefer'd before the Males in the Succession to that Dukedom: there is not so much as one single Example of it. This is then a New Law which the King of *France* would fain introduce into the Dominions of his Catholick Majesty: but it is too unjust to be admitted. What Kingdom in the World was ever so regulated? We know very well that there are several wherein the Females are excluded from the Government; because that Sex indeed is rarely capable of supporting the Burthen of Affairs, but never were they prefer'd before the Males. This is to go directly against Sense and Reason, and to overturn the Order of Nature.

Then let *France* cease to urge her pretended Right of Devolution, and to impose upon the *Brabanders*, by going about to persuade 'em, that she only acts in the defence of her particular Laws and Customs. She only makes use of that Pretence to gain their Country, and would overturn 'em to preserve it. She upholds, as she pretends, this Right in their Favour: but her Intentions are afterwards to destroy it, to their Ruine, by incorporating *Brabant* into her Crown for ever; and then we should see after what manner she would manage the Right of Devolution.

To all that we have said, we must farther add, That we may stop the Mouths of the French, who at any rate would have it, that the Customs of *Brabant* should be observ'd, that this Devolution is not so indispensably observ'd, but that the Children may renounce it in favour of a second Marriage of their Father or Mother; which is a Thing that happens every day.

Let us now proceed to the Second Point, which concerns the Renunciation made to the Crown of *Spain* by the K. of *France* and the Queen his Wife, in favour of *Philip IV.* by their Contract of Marriage. Never was Treaty more Authentick, nor of greater Importance. The Grand Business of it was, to restore Union and a good Understanding between two Potentates that had been a long time at Variance; to put an end to a Cruel War which could not prove otherwise then fatal to one of the two Kingdoms, and perhaps to Both; to terminate the Disputes that were the occasion of it; and lastly, to lay the Foundations of a lasting and solid Peace, which by establishing a good Correspondence between the two Kingdoms, might settle 'em in Plenty and Tranquillity. And in regard that woful Experience, together with the Different Interests of the two Princes, made both afraid, least instead of a Firm and Lasting Peace, it should only prove a Cessation of Arms to recover Breath, and gather Strength for new Vexations of each other, 'twas thought the Only Expedient to fortifie and assure a long and durable Peace by a Matrimonial Alliance between the two Crowns. Thereupon a Match was propos'd between the King of *France* and the Infanta *Maria Teresa*; but there was an Obstacle almost unsurmountable

mountable that lay in the way; the Law of *Spain* not permitting an Alienation of the Kingdom, nor that it should fall under the Dominion of a Stranger, which however might so fall out, if *Lewis XIV.* marry'd the Infanta without Conditions. For in case that *Charles II.* dy'd without Issue Male, *Spain*, of a Monarchy, as it was, would come to be a Province of *France*. Moreover, 'tis well known to all the World of what high Importance it is, not only to the Welfare of *Spain*, but of all *Europe*, to prevent the Conjunction of those two Kingdoms in one: which being consider'd and well understood by the two Kings, they resolv'd by consent to remove that Obstacle by an Express and Authentick Renunciation to the Crown of *Spain*. After which, the Match was propos'd to the Princess, who finding that instead of one Crown very uncertain whether it would descend to her or no, she should immediately enjoy another, and that by such an Act of Self-denial, she should procure Peace to her Country, without ever hesitating, consented to the Renunciation which was desir'd of her. This is barely and really the true state of the Matter of Fact without welt or guard; and this Renunciation was the Chief End and Foundation of the *Pyrenean* Treaty, without which, neither the Renunciation could have been made, nor could the Match have gone forward. It was then a Publick Treaty, in order to the Welfare and Tranquillity of two Kingdoms, and the Establishment of a Peace, of which the Marriage of the Infanta was as it were the Seal or Pledge. Nevertheless, the French would shake off this Renunciation by the Rubricks of the Palace, as a Petty Bargain of Four Sous concern, between Private Persons. And upon this Principle they alledge the Roman Law, the Constitutions of the Emperors, and the Sentiments of some Doctors, who condemn these sorts of Renunciations. But they vainly go about to make this Treaty pass for an Act *Stricti juris*, agreed between Private and Publick Persons, or of a Daughter to a Father. It was not only a Sincere Contract but a Publick Treaty, which concern'd the Publick, and transacted with the Publick, in behalf of which, King *Philip* undertook to make a solemn Agreement. Otherwise we must say, that the Crown of *Spain*, the States depending upon it, and all Persons, of what quality or condition soever that compose it, are the King's peculiar and private Estate, which would make him a Tyrant instead of a Lawful Prince. Let us agree then, that the Publick Interest was the Chief subject of this Treaty, for the good of which the King and the Infanta his Daughter prudently and like Christians provided by means of an Act which secur'd *Spain* from falling under the Dominion of a Stranger to the prejudice and detriment of her Fundamental Laws and Liberty.

This being lay'd down and granted for a certain Truth; they must grant us another: which is no less clear nor less solid; That the Renunciation, the Contract of Marriage, and the Ratifications and Powers that preceded or follow'd it, cannot be subjected to the Wranglings of the Bar, nor to any written Law, but only to the Law of God, the Law of Nature and of Nations; from the Bottom of which, all these Acts have drawn their Constitution and their Substance. The Law of God authorizes 'em, for that by preventing and obviating those Wars, which of necessity would have

have ensu'd, if this Renunciation had not been the Foundation of those Acts, they would have prevented an Infinite Number of Robberies, Murders, Rapes, Blasphemies, Sacrileges, &c. which are inseparable from War. The Law of Nature supports 'em, seeing that by removing Strangers for ever from the Crown, it procures the Enjoyment of it to the real Princes of the Blood, and to those of the same Nation, and as we have said, prevents a world of Murders and Disorders of the same Nature. The Law of Nations not only approves 'em, but gives 'em all their Strength and Force, since it is the warrant for all publick Acts that are made for the general Good of Society. Vainly therefore doe the French attack with the Rubricks of *Bartholus*, such sacred Treaties as these, which were the Unanimous Dictates of Nature, Piety and Affection for our Native Country.

Not, but that if we design'd to defend our selves with the same Weapons which they make use of to attack us, we could not only ward off their Blows, but employ 'em offensively with Success. For every Thing speaks in defence of the Crown of *Spain*, the Canon and Civil Law, the Law both written and unwritten, and if they were silent, the very Stones would speak in so just a Cause. We cite 'em therefore rather to stop their Mouths, then for any farther Support of a Right already so sufficiently prov'd.

'Tis true that the Roman Law and the Constitutions of the Emperors are expressly contrary to the Renunciations of Children; but when the main Dispute is about an Affair of so great Importance as this, it behoves us to penetrate to the very Bottom of the Laws, and without stopping at the Outward Rind, to examine the Reasons which induc'd those Legislators to frame their Decrees in that manner. That we may understand 'em then, it behoves us to observe that the Renunciations of Children to the Successions of their Fathers and Mothers, are of two sorts. The one in favour of a Father or Brothers, the other in favour of Strangers. As to the first, there was an absolute necessity of applying a Remedy to it, because the same Laws having granted to Fathers the Power of Life and Death over their Children, by that Constitution had put a means into their Hands to force 'em to whatever they thought fit to exact from 'em. And because it is usual to see Parents more particularly and more affectionately inclin'd to some of their Children then others, 'tis certain that many would have made use of their Sovereign Authority to force those for whom they had the least Kindness to relinquish their Titles for the benefit of their best belov'd: and in regard the Law it self had been the Occasion of these Disorders, 'twas necessary to apply a Remedy to 'em, that so the Renunciations of Children in favour of their Parents might be of no Validity. Now in regard the Renunciation in question is of the same nature; and that the Part of that Law which gave occasion to the other, by granting to the Fathers an Absolute Power over the Lives of their Children is abolish'd, it follows that the other part which was Enacted in consequence of it, should be disannull'd in like manner. It only then remains for us to know whether it were Effectually cancell'd: but that Question will not admit of the least Scruple, seeing that the Customs of *Brabant* and

and Spain perfectly agree in that particular, the Renunciations of Daughters in favour of the Fathers commonly taking place, provided they be of Age and of sufficient discretion; and this for a farther Surplusage of Right was confirm'd by the Decretal of *Boniface VIII.* which not being any new Constitution, but only an Explanation of the Civil Law has declar'd, That every Renunciation made upon Oath by a Daughter above 12 Years of Age, in favour of her Father in order to a Contract of Marriage, by which a sufficient Dowry is assign'd her, ought to be good in Law, tho' she be then under the Jurisdiction of her Father. After a Decision so clear as this, we cannot but wonder that Men should be so scrupulous after Subterfuges. For in short, all the Conditions requir'd in the Bull, are to be met with in the Queen's Renunciation. She was of Age, for that instead of being above Twelve Years of Age, she was above Twenty: She had a Sufficient Dowry, seeing that neither the Kings of *France* nor *Spain* were wont to give more then she had: and besides all that, it cannot be said that she was any way injur'd by that Renunciation, in regard that by relinquishing the remote and uncertain Hopes of one Crown, she gain'd another immediately no less glorious and flourishing then her own in Expectation. 'Tis to no purpose then to allege the Estates that she lost, seeing she was a Gainer of others that were more Considerable, and that according to the Law, *damno Vitando, & Lucro Captando*, there is no Injury done. But if the *French*, without any regard to Pope *Boniface's* Decretal, nor to the Customs of *Spain* and *Brabant*, nor to the Sentiments of the greatest part of their Doctors, will solely rely upon the *Roman Law*, let em then acquiesce in the last Will and Testament of *Philip IV.* by which he disposes of the Kingdom conformably to the Renunciation of the Infanta his Daughter. And the Right of Testatorship was so generally admitted among the *Romans*, and also held for so sacred, that there was not one, of which they had a more Religious Opinion in all their Pandects. If after all that we have said, they want Examples, we shall only produce five or six among a thousand that History affords us. *Pharnaces*, King of the *Parthians*, upon his Death-Bed, left his Crown to his Brother *Mithridates*, to the Exclusion of his Sons, because he did not think 'em capable of reigning after him. *David* for the like Reason excluded *Adonias* from the Throne, and gave it to *Solomon* his younger Son. *Rabobam* did the same in favour of his Son *Abdias*: *Don Jaime*, King of *Aragon*, substituted his Nephews in the room of his deceased Sons, to the Exclusion of his Daughters. *Don Pedro III.* and *Don Pedro IV.* did as much. Thus you see sufficient Proof of what concerns the King's last Will and Testament in respect of the Infanta's Renunciation. It is confirm'd by a hunder'd illustrious Examples. *Charlemaign*, the Eldest Son of *Charles Martel*, left the Kingdom to his Brother *Pepin*: *John*, King of *Armenia* to his Nephew; Queen *Christina* of *Sweden* did the same. And that we may not quit the House of *Austria*, *Charles V.* and *Philip II.* did they not abdicate after the same manner? But we perceive that these Examples will not satisfy em; they must have Renunciations the same in Fact, and in the same Case; and we have here two for em. *Margaret*, the Daughter of *Charles II.* King of *Naples*, was the Heiress of that Crown; nevertheless

she renounc'd her Right, both for her self and her Heirs, by her Contract of Marriage with *Charles of France*, the Son of *Philip the Bold*, for all her Dowry, bringing no more to that Prince, than the Earldoms of *Anjou* and *Main*, which he enjoy'd before; so that indeed she brought him nothing. But wherefore do we go so far a Field to search for that, which we may find in our own Age, and in the Families also of *Bourbon* and *Austria*. All the World knows, that when *Lewis XIII.* marry'd *Mary Ann*, Sister to *Philip III.* that Princess, jointly with her Husband, renounc'd their Succession to the King of *Spain*, in the same Terms, and upon the same Conditions that his Niece and her Daughter-in-Law did afterwards. This is a thing publicly known; and seeing that at that time there was not a word said against that Renunciation, they have as little reason do do it at this day. The only doubt then, that can now remain in the Mind of our Readers not well instructed in this Affair, is to understand whether the Renunciations of the Infanta *Maria Teresa*, and King *Lewis XIV.* were really Exact, Authentick, and no way subject to Explanation. For which Reason we have deem'd it convenient, for their Satisfaction, to insert here the Contract of Marriage, at length; together with the Ratification of the King of *France*, and the most Essential Articles of the Queen's Renunciation; as also of the Last Will of *Philip IV.* not believing it necessary to pester this small Volume with the two last Acts entire, nor with the Orders for their being enregister'd in the Parliament of *Paris*, the Chamber of Accounts, and Court of Aids, though they were there recorded with all the usual Formalities.

**The Contract of Marriage of the Most Christian King,
Lewis XIV. of that Name, with the Infanta,
D. Maria Theresa, the Catholick
King's Eldest Daughrer.**

IN THE NAME OF THE MOST HOLY TRINITY, Father, Son, and Holy Ghost, Three Persons in One only True God, to his Honour and Glory, and for the Welfare of these Kingdoms, Be it known to all Men to whom these Present Letters, and this Agreement of Marriage shall come, — THAT whereas in the Island call'd the *Island of Pheasants*, situated in the River of *Bidassea*, within Half a League of the Borough of *Andage*, a Province of *Guyenne*, and as much from the City of *Enin*, in the Province of *Guipuscoa*, and in the House which was built this Year in the said Island, there to treat of Peace between Their Most Christian and Catholick Majesties, this 7th. day of the Month of *November*, in the Year which is reckon'd from the Birth of Jesus Christ, Our Lord and Redeemer, 1659. before Me, *Pedro Colonna*, Knight of the Order of *St. Yago*, Lord of the Cities of *Chozaz*, *Cavales* and *Tundillers*, of the Council for the *Indies*, Secretary of State, Scribe and Notary to his Royal Catholick Majesty, have appear'd the Most Eminent Lord, Cardinal *Julius Macarini*, Cardinal of the Holy Roman Church, Duke of *Mayenne*, Chief of all the Councils of the Most High, Most Excellent, and Most Potent Prince,
Lewis XIV.

Lewis XIV. by the Grace of God, Most Christian King of *France and Navarr*, by virtue of the Power which he has from his Christian Majesty, Written in the French Language, Sign'd with his Royal Hand, and Seal'd with his Royal Seal; Countersign'd by his Secretary of State, *M. de Lomeny*; Dated at *Paris* the 21st. Day of *June*, 1659. Which Power remains in my Hands, and of which the Copy shall be annex'd to the End of these Presents, of the One Part; and of the Other, the Most Excellent Lord, *Don Lewis Mendez de Haro and Gusman*, Marquis of *Carpio*, *Conde Duke d'Olivarez*, Perpetual Governor of the Royal Palaces and Arsenal of *Seville*, Perpetual Grand Chancellor of the *Indies*, of the Council of State of his Catholick Majesty, Grand Commendator of the Order of *Alcantara*, Gentleman of his said Majesty's Chamber, and his Grand Esquire; and in the Name of the Most High, Most Excellent and Most Potent Lord, Prince *PHILIP IV.* by the Grace of God also, King of *Castille, Leon, Arragon*, Both the *Sycily's, Jerusalem, Portugal, Navarr*, and the *Indies*, &c. Arch-Duke of *Austria*, Duke of *Burgundy, Brabant*, and *Milan*, Count of *Hasburg, Flanders*, and *Tirol*, &c. And by virtue of a Power which he has from his Catholick Majesty, by an Act Sign'd with his Royal Hand, Seal'd with his Royal Seal, and Countersign'd by *Don Fernand de Fonseca Ruez de Contreras*, his Secretary of State; Given at *Madrid*, the 5th. Day of *July*, in the same Year. And whereas the King, Father and Lawful Guardian of the Most Serene Infanta, *Dona MARIA THERESA*, his Eldest Daughter; and of her Majesty, the deceased Queen *ELIZABETH*, his Lawful Spouse; And the said Lord Cardinal *Mazarini*, and Marquis *Conde d'Olivarez*, in the Name of his Catholick Majesty, by virtue of their Powers before-mention'd, have said and declar'd, That their Masters, as the most Christian, and Catholick King, who are earnestly intent upon the Good of their Kingdoms, and to confirm the Peace which is now establish'd between the Two Crowns; desirous also that the Continuance of this Peace may extend not only to the End of Their Majesties Lives, but pass with the same Firmness to their Successors and Posterity; and deeming no Means more effectual to obtain this Holy End, then strictly to renew their Alliances by the Benefit of a Marriage, Their Majesties, with the Grace of God, and to his Service, have treated and accorded the Espousals and Marriage of his said Majesty, the Most Christian King, with the Most Serene Infanta, *Dona MARIA THERESA*, Eldest Daughter of his Majesty the Catholick King, for the further confirming, by this New Knot, the Love, Amity and Union which is, and which they desire to preserve between their said Majesties. And to this effect, the said Lords Plenipotentiaries, in the Names afore-mention'd, have Treated and Agreed upon the ensuing Articles.

THAT with the Grace and Blessing of God, a Dispensation being first obtain'd from his Holiness, by reason of the Proximity of Blood and Consanguinity which is between the Most Christian King and the Most Serene Infanta, they cause their Espousals and Marriage to be celebrated by present Promise, according to the Form and Solemnity prescribed by the Sacred Canons and Constitutions of the Catholick, Apostolick, and Roman Church; and the said Espousals and Marriage shall be made in the Court

of his Catholick Majesty, where he shall be with the Most Serene Infanta Dona *Maria Theresa*; and thus by virtue of the Power and Commission of the Most Christian King, who shall ratifie and consummate it in Person, when the Most Serene Infanta, Dona *Maria Theresa*, shall be carry'd into and arrive in *France*; his Majesty joyning himself with her Highness, and receiving the Benedictions of the Church: And the Conclusion and Ratification of the said Marriage, whether by special Power or in Presence, shall be made, when and at the time concerted and agreed upon between Their Majesties.

THAT his Catholick Majesty promises and stands oblig'd to give, and shall give to the Most Serene Infanta, Dona *MARIA THERESA*, in Dowry, and in Favour of the Marriage with the Most Christian King of *France*, and pay to his Most Christian Majesty, or to the Person who shall have Power and Commission from him, the Summ of Five hundred thousand Crowns in Gold, or their just Value in the City of *Paris*; and the said Summ shall be paid in the following manner. The Third Part, at the time of the Consummation of the Marriage. The other Third, at the Year's End, after the Consummation; and the last Third Part, Six Months after. So that the full Payment of the said Summ of Five hundred thousand Crowns in Gold, or their just Value, shall be made in Eighteen Months time, at the Terms, and according to the Proportions already specify'd.

THAT his Most Christian Majesty obliges himself to settle, and shall settle a Joynture to the Most Serene Infanta, Dona *MARIA THERESA*, upon good and secure Rents, and upon valuable Funds and Assignations to the Satisfaction of his Catholick Majesty, or of the Persons whom he shall nominate for that purpose, proportionably, and as his said Majesty shall receive the said Five hundred thousand Crowns in Gold, or their just Value, within the Terms above-mention'd; and shall as speedily send to his Catholick Majesty the Acts of the said Assignment and Consignation of Rents. And in case of a Dissolution of the Marriage, and that of Right the Restitution of the Dowry takes place, it shall be restor'd to the Most Serene Infanta, or to the Person who shall have Power or Claim from her Highness, and during the time that the said Dowry shall remain unrestor'd, her Highness, or her Heirs and Successors, shall enjoy Revenues to the full Value of the said Five hundred thousand Pounds in Gold, at the Rate of the Twentieth Penny, which shall be paid by virtue of the said Assignations.

THAT upon the full and effectual Payment of the said Five hundred thousand Crowns in Gold, or their just Value, to his Most Christian Majesty, at the Terms above specify'd, the Most Serene Infanta shall account herself satisfy'd, and shall be satisfy'd with the said Dowry; and shall content her self with the said Dowry, in such manner, that it shall not be in her Power, at any time afterwards, to start any other Right or Claim of hers, or to commence any other Suit or Demands, upon Pretence that there belongs or may belong to her any other greater Estates, Rights, Reck'nings or Actions, by reason of larger Inheritances and Successions of their Catholick Majesties, her Father and Mother, nor by any Wager of Law.

Law grounded upon their Persons, nor in any other manner, nor for any Cause or Claim whatever, whether she know it, or be ignorant of it; seeing that of whatever Quality and Condition the said Actions and Things above-mention'd are, she ought to stand excluded from 'em. And before the Accomplishment of the Espousals, she shall make a Renunciation in good and due Form, and with all the Assurances, Forms and Solemnities that are requisite and necessary. Which said Renunciation she shall make before her being marry'd by present Promise, and which immediately after the Marriage, she shall approve and ratifie joyntly with the Most Christian King, with the same Forms and Solemnities which she made use of at her first Renunciation aforesaid; that is to say, with those Clauses as shall be judg'd most convenient and necessary. To the Performance and Accomplishment of which Renunciation, his Most Christian Majesty and her Highness, shall remain and do remain from this time forward as then oblig'd. And in case she shall not perform the said Renunciation and Ratification, by virtue of this Contract by Capitulation, the said agreed Renunciation and Ratification shall be held and adjudg'd, from this time forward, as then, for well and duly Perform'd, Pass'd and Ordain'd. Which shall be done in the most Authentick and most Effectual Form that may be, that so they may be Firm and Valid, together with all the Clauses derogating from the Derogatories of any Jurisdiction, Custom, Privileges and Constitutions contrary to this Act, or which may hinder, in whole or in part, the said Renunciations and Ratifications. From all which particular and derogatory Customs and Jurisdctions, for the more effectual Confirmation of the above-mention'd Renunciations and Ratification, their Most Christian and Catholick Majesties shall derogate, and will from this present absolutely derogate. And for their Approbation and Ratification of this present Contract, from this time forth, as then it shall be understood, and is understood, that they have derogated from all those Exceptions above-mention'd.

○ THAT for as much as their Most Christian and Catholick Majesties are come and do come to conclude a Marriage, in order to the perpetuating and securing, by means of this Tie of Affection, the publick Peace of Christendom, and between their Majesties, that Love and Amity which every Body hopes there is between 'em; as also in Consideration of the just and lawful Causes which demonstrate and persuade the Equality and Conveniency of the said Marriage; by means of which, and through the Favour and Grace of God, every Body may hope from these happy Proceedings, the great Benefit and Encrease of the Christian Faith and Religion, the Common Welfare and Prosperity of both Kingdoms, the Subjects and Vassals of both Crowns. As also, for what concerns and imports the Good of the Republick, and the Preservation of the Two Crowns; which being so great and Puissant, they cannot be united into One, and that from henceforward the Occasions of such a Conjunction may be prevented; Therefore, considering the Quality of the Subject, and other just Reasons, more-specially that of Equality, which ought to be preserv'd, Their Majesties Agree and Ordain, by Contract, and Covenanted Compact between themselves, which shall issue forth and obtain the Place, Force and Vigour
of

of a Firm and Establish'd Law for ever, in Favour of their Kingdoms, and for the Common Welfare of Both, That the most Serene Infanta of *Spain*, Dona *MARIA THERESA*, and the Children begot of her Body, whether Male or Female, and their Posterity, First or Second, Third or Fourth Generation born after her, in what Degree soever they may be, that is to say, for ever, neither can succeed, nor may succeed to the Kingdoms, Estates, Signiories and Dominions which belong or shall belong to his Catholick Majesty, and which are comprehended under the Titles and Qualities mention'd in this present Capitulation; nor to any of his other Kingdoms, Estates, Signiories, Provinces, adjacent Islands, Captainships, nor to the Frontiers which his Catholick Majesty possesses at present, or which do or may belong to him, as well within as without the Kingdom of *Spain*; and which, for the future, his Catholick Majesty, or his Successors, shall have or possess, or which shall belong to him or them, nor to any that are comprehended in these, or depend upon 'em; nor to any of those which hereafter, at any time whatever, may accrue to him, or which he may acquire or add to his said Kingdoms, Estates and Dominions, or which he may regain, or which may escheat to him by Devolution, or by any other Title, or Right, or Reason whatever, though it were during the Life of the said Most Serene Infanta, Dona *MARIA THERESA*, or after her Death, in the Life-time of any of her Off-spring, First, Second, Third born, or further, whereby any Ground or Grounds in Law, by which either of Right, or by the Laws and Customs of the said Kingdoms, Estates or Dominions, or by the Disposals of Titles, by which they might succeed, or pretend to succeed to the said Kingdoms, Estates or Dominions, may be said to belong to them. From the Succession in all which Cases, the said Dona *MARIA THERESA* says and declares her self to be from henceforward excluded, and to remain truly and lawfully excluded, together with all her Children and Posterity, Male or Female, though they would or could say or pretend, that in their Persons, neither the said Reasons of State, nor any others upon which the said Exclusion might be grounded, could be of force, or could or ought to be consider'd; or that they should alledge, (which God forbid,) That the Succession of the Catholick King, or his Most Serene Princes or Infants, and abundance of Males which he has, and may have for his Lawful Successors, were fail'd and extinct. Because that, as has already been said, in no case, nor at any time, nor in any manner that may happen, neither She nor They, their Heirs and Posterity, have any thing to do with the Succession, nor to pretend a Power to succeed in any of the said Kingdoms, States and Signiories. As also, notwithstanding all the Laws and Customs of the Crown of *France*, which to the Exclusion of the Successors to that Crown, oppose themselves to the above-mention'd Exclusion, as well at present, as for the Time to come, and to the Cases which would have a long time time delay'd the said Successions. Upon which Considerations joyn'd together, and every one in particular, their said Majesties abrogate whatever they contradict or impeach being contain'd in this Contract, and whatever may hinder the Accomplishment and Execution thereof. And that for the Approbation and Ratification of this present Capitulation, they

they derogate from all things prejudicial to it, and hold 'em as derogated from: they also will and mean, that the Most Serene Infanta and her Posterity, shall for the future, and forever stand and remain Excluded from Succeeding at any time or in any case to the Estates of the Country of *Flanders*, the County of *Burgundy* and *Charolois*, their Appurtenances and Dependencies. In like manner they also declare most expressly, That in case the Most Serene Infanta happen to be a Widow (which God forbid) without Children by this Marriage, that she shall be free and discharg'd from this Exclusion, and declar'd a Person capable of her Rights, and may succeed to all that may belong to her, or Escheat to her in two Cases only; the one, if remaining a Widow of this Marriage without Children, she return into *Spain*. The other, if for reasons of State, for the Publick Good, and upon just Considerations, she Marry again with the Good Will of her Father the Catholick King or the Prince her Brother. In which two Cases she shall be capable to succeed and inherit.

THAT the Most Serene Infanta, Dona *Maria Theresa*, before the Celebration of the Marriage by present Promise, shall give, promise and grant a Writing, by which she shall engage as well for her self as for her Heirs and Successors, to accomplish and perform all and every thing above written, in reference to her Exclusion, and that of her Posterity, and shall approve the whole, as it is contain'd in this Capitulation, with requisite and necessary Clauses and Oaths. And at the Inserting the above-mention'd Obligation and Ratification which her Highness shall have given and made to this present Capitulation, she shall make another of the same nature, and like this, jointly with the Most Christian King, so soon as she shall be Espous'd and Married, which shall be Register'd in the Parliament of *Paris* according to the accustom'd Form, with other Necessary Clauses. As also on the Part of his Catholick Majesty, he shall approve and Ratify the Renunciation in the Accustom'd Form and Force with other Necessary Clauses. And whether the said Renunciations, Ratifications and Approbations be made or not made; from hence forward by vertue of this present Capitulation and the Marriage which shall ensue, and in Consideration of all the Things above-mention'd, they shall be held and adjudg'd for well and duly made and consented to, and for past and Register'd in the Parliament of *Paris*, by the Publication of the Peace in the Kingdom of *France*.

THAT his Most Christian Majesty shall give to the Most Serene Infanta Dona *Maria Theresa* the value of 50000 Crowns in Gold in Jewels, which together with all those that she shall carry along with her, shall belong to her without any Scruple, as being the Patrimony peculiar to her Highness, her Heirs and Successors, or to those who shall have her Right and Claim.

THAT his Most Christian Majesty according to the Ancient and most Laudable Custom of the House of *France*, shall assign and appoint to her Highness the Infanta Dona *Maria Theresa* for her Jointure Twenty Thousand Crowns in Gold every Year, which shall be assign'd upon Revenues and Lands where there shall be power of Administring Justice, the Principal Place of which shall bear the Title of a *Dutchy*, and Successively
every

every Year to the value of the said Summ of 500000 Crowns in Gold: which Lands and Places so given and assign'd, the said Most Serene Infanta shall enjoy in her own Hands, and of her own Authority, or of those of her Commissioners and Officers, and shall have Jurisdiction and Power of Justice, as has been always practis'd. Moreover to her shall belong the supplying of all vacant Offices as the Queens of *France* have been accustomed to have. Provided alway that the said Offices shall be given only to Natural French Men; as also the Administration and the Farms of the said Lands, conformably to the Laws and Customs of the said Kingdom of *France*. Of the which above-mention'd Assignment, the said Most Serene Infanta Dona *Maria Theresa*, shall enter into Possession, so soon as her Jointure shall take place, to enjoy during her Life, whether she abide in *France*, or retire to any Place out of *France*.

THAT his Most Christian Majesty shall give and assign to the Most Serene Infanta Dona *Maria Theresa*, for the Expence of her Chamber, and the Support of her State and Household, a Convenient Summ, such as is proper and suitable for the Wife and Daughter of two such Great and Potent Kings, assigning it in such Form and Manner as Assignations are usually made in *France* for such like Expences.

THAT the Most Christian King, and the Most Serene Infanta Dona *Maria Theresa*, shall be espous'd and marry'd by a Proxy, whom the Most Christian King shall send to the Most Serene Infanta, by present Promise. Which being done, his Catholick Majesty shall cause her to be Conducted at his own Expence and Charges to the Frontiers of the Kingdom of *France*, with that Splendor and Equipage as shall be suitable to the Wife and Daughter of two such Great Kings; and with the same Magnificence she shall be receiv'd by the Most Christian King.

THAT in case the Marriage should happen to be dissolv'd between his Most Christian Majesty, and the Most Serene Infanta, Dona *Maria Theresa*, and that her Highness survive his Most Christian Majesty; in that case she may return freely, and without any Impeachment into the Kingdom of *Spain*, and to the Places and Parts which she shall make Choice of more Convenient out of *France*, at all times, and as oft as she thinks fit with her Goods, Dowry and Jointure, Jewels and Apparel, Plate, and all her Other Moveables whatever, with the Officers and Servants of her Household, without any Impeachment whatever, or stop of her Departure, directly or indirectly for any Cause whatever it be that may happen; nor shall she be hinder'd from the Enjoyment or Recovery of her said Dowry and Jointure, or other Assignations which shall or ought to have been given her. And to this purpose his Most Christian Majesty shall give his Catholick Majesty for the said Most Serene Infanta Dona *Maria Theresa* his Daughter, such Letters of Security as shall be requisite, Sign'd with his own Hand, and Seal'd with his Seal; and from that time forward as then, his Most Christian Majesty shall secure and Promise 'em for himself and the Kings his Successor, upon the Faith and Word of a King.

This Treaty and Contract of Marriage was made with a design to supplicate our Holy Father the Pope, as at present their Majesties do

plicate him, that he would be pleas'd to approve it, and give it his Apostolick Benediction, as also to approve the Capitulations and Ratifications, that their Majesties and her Highness have made of it. and the Writings and Oaths which shall be made, and consented to For the Accomplishment of it, inserting them into his Letters of Approbation and Benediction; That their Most Christian and Catholick Majesties will approve and ratifie this present Capitulation, and every thing therein contain'd, shall promise and oblige themselves upon their Faith and Royal Word inviolably to observe and fulfil it, and shall to this Effect deliver their Brevets or Letters in the usual Form, with the Clauses abrogating any Laws, Jurisdictions or Customs which shall be contrary to this Contract, and which it is agreed that they shall be abrogated. Which before mention'd Brevets or Letters of Ratification of the Present Writing, shall be deliver'd by one to the other Reciprocally, within thirty days, to reckon from the Day and Date of these Presents by means of the Embassadors or Ministers that shall reside in their Most Christian and Catholick Majesties Courts, with the Obligation and Credit of their Faith and Royal Words, which they shall Effectually perform and observe, and shall command to be fully observ'd and fulfill'd, without any failure either in the whole or in part, and shall neither go nor come, nor consent to go or come in opposition to it, directly or indirectly, nor in any other fashion or manner. For thus the said Lords Plenipotentiaries have promised and stipulated by Vertue of their Powers from their Majesties. At which were present on the Part of *France*, Messieurs, the Duke of *Guise*, Count d' *Harcourt*, Grand Esquire of *France*, and Governour of *Alsatia* and *Philipaburg*; Marshal de *Clerembaud*, Governour of *Berry*; the Duke of *Crequi*, first Gentleman of the Chamber to our said Lord the Most Christian King; Bailly de *Soure*, Count d' *Olonne*; Marquis de *Vardes*, Captain of 100 Swissers of his said Majesty's Guard; Marquis de *Soyecour*, Master of his said Majesty's Wardrobe; De *Lyonne*, Minister of State; *Courtin*, one of the Masters of Requests of the Hostel of his said Majesty; D' *Avaux*, Master of Requests also in the said Household; with several other Lords and Knights. And on the part of *Spain*, the Marquis of *Mondejar*, Gentleman of the Chamber to our said Lord the Catholick King: the Duke of *Mazara* and *Maqueda*; Marquis of *Balbazen*, Captain General of the *Gens d' Arms* of the Dutchy of *Milan*; Doctor Don *Joseph Gonzalez*, of the Council and Chamber of his said Majesty, and President of the Exchequer; Dr. Don *Francisco Ramos de Monsano*, of his said Majesty's Council, in the Sovereignty of *Seville*; the Baron of *Batteville*, Don *Rodrigo de Maurcia*; and several other Lords and Knights. And the said Lords Contracting, have Sign'd it with their Names and Hands, and requir'd me to give 'em a Copy of this whole Capitulation, and of all those that are translated, which are requisite for 'em. Sign'd Cardinal *Mazarini*, and Don *Lewis Mendez de Haro*. Done and pass'd before Me, Secretary above-mention'd, Scribe and Notary-Publick, the Year and Day above written. *Pedro Colonna*, in Testimony of the Truth; *Pedro Colonna* with a Flourish.

The Ratification of his Most Christian Majesty.

WE with the Advice of the Queen our thrice Honour'd Lady and Mother, and our most dear and most beloved only Brother the Duke of *Anjou*, several Princes, Dukes, Peers and Officers of our Crown, and other Great and Remarkable Personages of our Council, after we had caus'd the said Treaty to be read Word by Word, have agreed to it, approv'd and ratify'd, and doe agree to it, approve and ratifie it in all and every the Points and Articles, by these Presents sign'd with our Hand; promising upon the Faith and Word of a King, inviolably to fulfil, observe and hold, without ever going or coming in Opposition to it, directly or indirectly in any sort or manner whatever: abrogating to that End, as we doe hereby abrogate all Laws, Customs and Disposals to the Contrary. For such is our Pleasure. In Witness whereof we have affix'd our Seal to these Presents. Given at *Thoulouze* the 24th. of *November*, in the Year of Grace, 1659. and 17th. of our Reign. Sign'd, *Lewis*; and below, by the King *Lamonia*.

An Abstract of the Act of Renunciation by the Queen of *France*.

THE Lady *Maria Theresa*, Infanta of Both *Spain*, and by the Grace of God, Future Queen of *France*, Eldest Daughter of the Most High, Most Excellent, and Most Potent Prince Don *Philip IV.* by the same Grace, Catholick King of Both *Spain*, my Lord, and of the Most High, Most Excellent and Potent Prince, the Lady *Isabella*, Catholick Queen, who rests in Glory; By this Instrument and Act of Renunciation, and what is therein over and above contain'd, Be it notorious and manifest to those who have any knowledge of it in any manner whatever it be: That by the 2d. and 4th. Article of the Treaty of my Marriage, promis'd with the Most High, Most Excellent, and Most Potent Prince, *Lewis XIV.* Most Christian King of *France*, concluded in the Island, call'd the *Ile of Phaeants*, in the River *Bidasson*, within the Jurisdiction of the Province of *Guipuscoa*, and of these Kingdoms with that of *France*, the 7th. of *November* of the last Year, 1659. it was resolv'd and decreed, That the King my Lord, because, and in consideration of this Marriage, and to the end I should carry along with me my Dowry, and my own proper Goods, should promise that he would give me Five hunder'd thousand Crowns in Sun-Gold, which should be pay'd and deliver'd at the Place, and within the Terms specify'd in the said Article, to the Most Christian King, or to such Person as should have his Power, and that after that, I should Content my self and rest satisfy'd, and desist from All Claims and Actions which belong'd or might belong to me, either at present or for the future, to the Estates and Inheritance of the Most Serene Queen, the Lady *Isabella* my Mother, and to the future Succession to the King my Lord, whom God have in his keeping, and to all

all that might belong or appertain to me, as the Daughter and Heiress of their Catholick Majesties, and to their Right and Sovereignty, and to any other Title thought of, or not thought of, known or unknown, as well by the Paternal and Maternal Line, direct or Collateral, Mediate, or Immediate, and that being to solemnize the Marriage by present Promise, I must relinquish and renounce all my Rights and Actions to the King my Lord, or to the Person who shall represent him; and that it is his Majesty's Will and Pleasure, as is stipulated and declared more particularly by the said 2d. and 4th. Articles, which I have read and heard read several times, being to consent that this Act should be drawn up, and which I am willing should be here inserted and set down Letter for Letter, and Word for Word.

Here follow the 2d. and 4th. Articles of the Contract of Marriage already repeated.

See the 17th. Article of the last Will and Testament of Philip VI. King of Spain, which is in pursuance of the 4th. and 5th. Articles of the Contract of Marriage of the Infanta, which Philip had inserted in his Will.

For the fulfilling of these Treaties, the Infanta Madam Maria my Daughter, pass'd that Renunciation under a Solemn Oath in the City of Fontarabie, June 2. 1660. Counter-sign'd by D. Ferdinand di Fonseca Ruiz de Contrera, our Secretary of State and Notary Publick of these Kingdoms; and although we hope that the said Infanta our Daughter, and the Most Christian King her Husband will fulfil and observe whatever is abovemention'd, and whatever is over and above contain'd in the said Treaty of Marriage, and in the Renunciation to be an Obligation of Justice and Conscience, nevertheless that we may by all the most direct ways secure the fulfilling of it in a Matter and in an Affair, wherein consists the Peace and Repose of all Christendom, behaving our selves as we do in the quality of a Father, and natural Lord of all our Kingdoms, Estates and Demesnes, by vertue of that Sovereign Authority which we in all due Right possess, to dispose and for the Greatest Benefit of our Subjects and the common Cause, to provide for their Better Government, and to prevent the great Damages that may ensue from a Conjunction of the two Crowns, and their Dependencies, of our own proper Motion, certain Knowledge, and Royal and absolute Power, of which it is our pleasure to make use, and which we doe make use of, with a notorious and entire Assurance of the Example of our Predecessors, who have chang'd, dispos'd and alter'd the Order of the Succession of our Kingdoms and Dominions, by Excluding the Eldest Children and their Posterity, by reason and because of Treaties of Peace and Marriage; and for other Considerations us thereunto moving, we declare that the Most Serene Infanta Madam Maria Theresa, our Daughter, and the Children which she shall have by this Marriage, Male or Female and their Posterity, shall be, and shall remain Excluded; and forasmuch as through necessity we Exclude 'em from all Right or Hope which they shall or may have in any case whatever, that may happen

to any of our Kingdoms, Estates and Dominions for ever and ever, as if they had never been born; We declare, that this Exclusion, and all that has been settl'd, and which we settle in Consideration of it, in the Person of the Infanta, Madam *Maria Theresa* our Daughter, and her Posterity by this Marriage, Male or Female, ought to be observ'd; and for as much as there is a necessity for it, we Will and Command that it be observ'd, fulfill'd and executed in the Person of the Most Serene Queen, Madam *Ann* our Sister, and her Posterity, in Conformity to her Treaty before Marriage and the Renunciation, and what his Majesty *Don Philip III.* our Lord and Father settl'd by his said Law, and by his Last Will above recited, concerted and accorded between the two Crowns; and we approve it upon the same Conditions, and with the same Force as Laws ought to have, that are granted and made among Sovereign Princes, using their absolute Power. And we revoke, annul, derogate and abrogate all and every Law and Laws, Rights, Settlements and Customs which may in any manner, whatever it were or may be, hinder this Exclusion, as if every one were Express'd, that particular Mention were made of it. We also declare, That if it should so happen, which God forbid, that the Most Serene Infanta should come to be a Widow, without having any Issue by this Marriage, and that she should return into *Spain*, or for the Conveniency of the Publick Good, or upon Just Considerations, should Marry again with our Consent, or of the Prince our Son, after our decease, We Ordain, and such is our Will and Pleasure, that neither the said Exclusion nor Renunciation, shall deprive her of any Thing, but that she and the Children of the second Wedlock, provided it be not in *France*, may be capable of succeeding in the said Kingdoms, Estates, &c.

We might be justly blam'd for loving to discourse to no purpose, if after Acts so Authentick, and so plainly settl'd as these which we have recited, we should still heap Reasons upon Reasons to justify 'em. They speak of themselves, and they who will not understand 'em, would never hearken to us, should we speak never so much. We shall therefore conclude this Chapter with one small Reflection upon the Boldness with which the French demand the Dowry of *Isabella* of *France*, and the Augmentation settl'd by *Philip IV.* together with the Interest since her Death, and that of *Maria Theresa* of *Austria*. As if it were not well known, that *Philip IV.* never receiv'd a Sous of his Wife's Dowry, but that he punctually pay'd his Sister's, and that *France* was a Debtor to him, otherways above two Millions.

Pretensions.

Pretensions of the King of France to the Old Borough of Gand, with all its Dependencies to the City and Castellanship of Alost, the City of Gramont, Renaise, Ninove, Riderhouse, the Country of Beveren, the Farms of Assenede, Buckartwert, Eererrugghes, Opdorp, Moorselle, St. Amant; the Country of Bertheim, the Lands of Floberg and Lessines.

THE King of France has in some measure desisted from these last Pretensions, nevertheless, because it is the humour of his Council never to Renounce, but only to Surcease and Prorogue his Interests, whether true or false, and for that there is no question to be made, but that when an Opportunity serves, they will set 'em again on foot, we thought it convenient to place 'em in an Article that will conclude this Paragraph.

There will be no Necessity of any Strict Enquiries to discover the Right of the King of France's Claims, upon which he builds his Title and his Pretensions to unite the Countries to his Crown. For by his Declaration in August, 1681. the Writing which was drawn up by his Proctor, in the Assembly at Courtray, gives us an Explanation so clear and so just, as to the Sense of the French, that it will suffice to insert an Extract of it in this place, Word for Word. Observe what it contains.

His Most Christian Majesty's Proctor replying to the Defences exhibited by his Catholick Majesty's Proctor, the first of this Month, against the Declaration by him deliver'd the 4th. of August last, says, That his Most Christian Majesty has made himself Master by Force of Arms, and by Right of Conquest, of all the Countries contain'd in the said Declaration.

THAT his Most Christian Majesty has Exercis'd all the Rights of Sovereignty, from March 1678. till the Conclusion of the Treaty of Nimwegen. That he has receiv'd the Oaths of Fidelity of the Nobles and Commonalty, and generally of the Inhabitants of all the Countries in dispute. That he has rais'd to his own Profit, the Aids, and generally all the Impositions, as well Ordinary as Extraordinary, and all the Feudal and Demesne Rights. That all the Ordinances which concern the General Civil Government, the Finances, &c. have been issued forth under his Authority. That Justice has been administer'd there under his Name. That he has Confiscated to his own Benefit several Places seated within the Extent of the Countries in dispute, belonging to the Subjects of his Most Christian Majesty, residing within the Territories under his Obedience. Lastly, That his Most Christian Majesty, from his Conquest till the Peace, Exercis'd within these Countries all the Rights of Sovereignty which he enjoys in other Places, that from all Antiquity have been subject to his Jurisdiction; or which he had acquir'd beyond all Contradiction by Force of his Arms, during the Course of the War.

After

After this, He fills up several Pages, to prove that during the Course of the War, the King of *France* had seiz'd in the Country as King and Sovereign, and says at length, 'That they are willing in Conformity to what his Catholick Majesty's Proctor desires, to Stick to what was precisely Stipulated; and so 'tis for the King of *Spain* to make it out that there were any Covenants on his part, for the Restitution of the Castellanship of *Alost*, of the Old Borough of *Gand*, and other Places mention'd in the Declaration of the 4th. of *August*.

For, says he, 'tis true, that seeing, as we believe it has been prov'd demonstratively, that the Most Christian King had legally acquir'd by Right of Wars, the Places in dispute, and that he has been truly in Possession, it is as certain that not having relinquish'd 'em by the Treaty of *Nimwegen*, but on the Contrary having declar'd by the Conditions of the Peace which he propos'd, that his Intention was to retain all the Places and Countries of which he was in Possession, except what he was pleas'd to relinquish, his Most Christian Majesty intended to preserve what he demands at this day.

Enquiries into the Pretensions of the King of France to the Old Borough of Gand, and Castellanship of Alost, &c.

THE Result of this Extract and of his Most Christian Majesty's Proctor, is in few Words, *I have got Possession by Force of Arms; I have kept it during the War, by Force of Arms: And I resolve to keep it after the Peace.* For in short, it is ridiculous to say, That because there is nothing Covenanted in particular about the Restitution of these Places, that therefore the King of *France* has a Right to preserve 'em, or rather to keep 'em by force. It being certain, that even in the most Violent Heat of the War, this Country which lies open on every side, and which cannot be call'd other then the Flat Country, was no otherwise in Subjection to the French, then as usually are all those open Countries where the Enemy is at Liberty to range and exact Contributions; and that in all the Jurisdictions the Authority of the Catholick King was acknowledg'd before that of the Most Christian; particularly at *Gramont*, *Ninave*, *Lessines* and *Floriss*, where Justice was always administer'd in his Name, and from whence they always appeal'd to *Brussels* and *Malines*; so far were the Magistrates and the Nobility from Swearing Fidelity to the Most Christian King, as is pretended and asserted. But tho' it were so, what Title could be inferr'd from an unwilling Homage, pay'd by Subjects who are forc'd to obey, not with the dry Cudgel only over their Shoulders, but with the Naked Sword and Flaming Torch before their Doors?

The Pretensions of the King of *France*, are not in this case supported so much as with the least Shadow of Dependencies, which he has render'd so famous within these few Years. He acknowledges that none of these Castellanships, Cities and Villages are under the Jurisdiction of the Cities that have been relinquish'd to him; nevertheless he has a long time persisted to demand 'em, and to pretend to 'em, for no other reason but because

cause the Country which lies open on every side, has suffer'd during the whole War, the Vexations and Violences of his Soldiers, and for that on the other side, the King of Spain, who look'd upon 'em as his Ancient Subjects, us'd 'em with the mildness of a Gentle Prince, and assisted and protected 'em as much as lay in his power.

We forbear to be tedious upon this Article, as upon all the rest, 'it not being our Design, as we have said before at the beginning, to handle any of these Subjects, *ex professo*. Our purpose only is to give the Reader a short and faithful Abstract of the King of France's Claims to the Territories of the Confederate Princes, and of the Pretensions of the Confederates to what he asserts to be His, with the Reasons allready'd on Both sides, without entering into a Discussion which has already been the Subject of whole Volumes.

Pretensions of the King of France to the Republick of Genoa.

After the Fall of the Roman Empire, *Liguria* was annex'd to the Kingdom of the *Lombards*, of which it was a Province till the Year 799. at what time *Charlemain* having defeated *Didier*, King of the *Lombards*, conquer'd the City of *Genoa*, as well as the rest of *Italy*, except *Venice*. He plac'd a Governour there, whose Name was *Ademar*, and to render his Jurisdiction more Considerable, he added to it the Island of *Corfu*, which belongs at this day to the *Genoeses*. From this Conquest it is, that the King of France derives his first Title to *Genoa*, as Successor to *Charlemain*, whose whole Monarchy he looks upon as his own.

His Second Title is deduc'd from hence, that in the Year 1390. the *Genoeses* finding themselves hard press'd upon by the *Venetians* their usual Enemies, they had recourse to *Charles V.* King of France, and put themselves under his Protection, to the end he might give 'em that Assistance which they stood in need of. Upon which he sent his General *Boucicaut* with a Powerful Army, who beat the *Venetians*, and afterwards receiv'd the Homage of this City in the Name of *Charles*, his Master.

This Dependence upon the Crown of France, to which the *Genoeses* by a voluntary Act, submitted, that so they might be succour'd against the *Venetians*, was confirm'd and renew'd in the Year 1458. For that fearing to fall under the Servitude of the *Moor*s, or to be subdu'd by the Duke of *Milan*, they sent *Peter Frogosa* to *Paris*, to *Charles VII.* with a Request that he would once more take their City into his Protection, and succour 'em against their Enemies, and withal to promise in their Names, Fidelity and Acknowledgment. *Charles*, who desir'd nothing so much, consented to their Submission, and sent *John*, Duke of *Anjou*, to receive their Oath of Fidelity.

But in regard the *Genoeses* are Extreemly Turbulent, and Great Lovers of Change, they soon broke all their Engagements which they had made with France, and shaking off the French Yoke, expell'd the Garrison, and pretended to be absolutely Free and Independent. But this lasted not

long : For *Philip Galeazzi*, Duke of *Milan*, having declar'd himself against 'em, they found themselves within two Fingers breadth of utter Ruine; which enforc'd 'em to send once more their Embassadors to *Lewis XI.* And if I am not mistaken *Frogosa* and *Grimaldi* were the Commissioners, who protested to the King, That for the future they would be more Constant and Faithful in their Obedience. However, *Lewis*, who was well acquainted with their Humour, gave 'em but a very bad Reception at first, *Come hither*, said he, *hold up your Hands and Swear, Are you entrusted by the Signiory, or no?* 'Yes, Sir, (answer'd the Embassadors) the whole Republick unanimously speak their Hearts and Minds by our Mouths, and promise to your Majesty Homage and Fidelity, provided you will vouchsafe to protect us against the Duke of *Milan*. *You then belong to Me*, (reply'd *Lewis*) *and I freely bequeath ye to the Devil, for a Company of Traitors, that are always changing your Sovereign.* Nevertheless, he receiv'd 'em afterwards, and to punish 'em, he invest'd in their Dutchy *John Galeazzi*, the Son of *Philip*, between whom and Them he had made an Accommodation, and because he was very young, his Mother *Bona*, Dutches of *Milan*, did Homage and swear Fealty in his Behalf to Commissioners, whom *Lewis* sent for that Purpose, and to whom he pay'd Fifty Thousand Ducats for the Investiture, which was in the Year 1478.

Charles VIII. his Son, in like manner, invest'd in it *Lodowick Sforza* in 1484. who did Homage for it in his own Person, *Charles* refusing a very Considerable Summ, which *Lodowick* offer'd him, that he might be admitted to doe it by a Proxy. But after his Death, the *Genoeses* revolted again, and with greater Fury then before. For they not only broke down the Arms of *France* that were set up in several parts of the City, but they cut the Throats of the Garrison; and erected a new Form of Government among themselves, from which they Excluded the Nobility with that Severity, that by a Law which they made, before they could be admitted to Dignities and Employments, they were to prove their Peasantry, and their being Apprentices to some Mechanick Trade; nor was the Duke excepted, to which Supremacy they advanc'd one *Pain de la Noue*, a Dyer. This Change, as well you may believe, was not without pernicious Consequences. There was a great deal of Blood spilt in the City by the different Factions that were in it, and much more when *Lewis XII.* came before it with all his Forces. The Siege lasted two Months, at the End of which, having taken the Town, he caus'd the New Duke to be hang'd, and enter'd in at the Breach, in compleat Armour, with his Sword in his Hand, as if he had intended to have put all the Inhabitants to the Sword. However he met no Body in the Streets, for they were all fled into the Grand Piazza, where he found 'em in the greatest Terror and Consternation in the World. So soon as they beheld him, they threw themselves upon the Ground, crying out, *Mercy*, after so pitiful a manner, that the Victor was touch'd with Compassion, and pardon'd 'em. Nevertheless, for their Punishment, he took from 'em their Privilege of Coining Money, and impos'd a Governor upon 'em. This happen'd in the Year 1506. But whether it were their Natural Inconstancy, or that the French Dominion were so severe, that they who had not been accusom'd to it, could
not

not brook it, certain it is, that about 25 or 30 Years after that, they utterly expell'd the French, and settl'd their Government upon new Foundations, as now it stands. For tho' the General had at first reduc'd 'em to Obedience, yet upon his departure for *Naples*, *Andrew Doria*, who had left the French Service, as not being Recompenc'd to his mind, undertook to recover the Liberty of his Country; which he accomplish'd at last with the Assistance of the Emperor *Maximilian*, whom he caus'd the Republick to acknowledge; and ever since that time it has been Free.

*Enquiries into the Pretensions of the King of France
to Genoa.*

Certain it is, that Donations so often repeated, are to be accounted among the Justest Claims that can be urg'd. We have sufficiently prov'd it already, and therefore we conceive it not requisite to handle this Question over again. Only we must say, that these Donations have been practis'd in all Ages, and approv'd in Sacred Scripture, as may be seen in the Books of *Exodus* and *Leviticus*. 'Tis also true, that after a Solemn and Voluntary Donation, more-especially when it was attested with a Safe Protection, there is no withdrawing from it, without incurring the Crimes of Rebellion and Felony: but all this no way supports the Pretensions of *France*. Now to make a Solid Judgment of the Matter, we must go back to the Spring Head, whether it were in the Power of the *Genoefes* to give themselves to the King of *France*. 'Tis Evident then that they could not. Seeing that from the time that they were Conquer'd by *Charlemain*, they became Members of the Empire, from which they were never separated since, neither under the Reign of *Lewis the Debonair*, nor that of *Lothaires*, nor any other of the Emperors that reign'd since them, to the Year 1324. at what time out of their Natural Inclination, they alter'd their Government, and made choice of a Particular Duke among themselves, who was *Dominico Fregoza*. Nevertheless, they did not absolutely separate from the Empire, but they pretended not to acknowledge it for the future, but under the Title of Protection: and because they could have been glad not to have held of it all, and yet were afraid of being Outlaw'd, they thought they could not take a better Course, then to shrowd themselves under the Protection of *France*. This was their Policy in their first Insurrection. But in regard that as Members and Subjects of the Empire, they were oblig'd to keep themselves fix'd to it, neither had they any Right to withdraw themselves from it. So that their Voluntary Donation, which had been very good and Equitable, had it been made by free People, can be look'd upon as no other then an Attempt against the Emperor and the Empire, and a Manifest Rebellion, because they were Natural Subjects. For it signifies nothing for the French to say, That the Empire is a Dependence upon their Crown. For, First, the Proposition is absurd in it self, and then the Contrary visibly appears by the Partition which *Lewis the Pious* made among his Children, and the Arbitrary Sentence that confirm'd it afterward. Which being laid down and acknowledg'd, who is there that do's not

readily perceive the Nullity of the French Sovereignty over the *Genoeses*; and that when at the Instigation of *Andrea Doria*, they Expell'd the French out of their Territories, they did but return and submit themselves to their Obedience under their Real Sovereign, who had always preserv'd his Rights, maugre their Rebellion, which was well acknowledg'd by all the World, that in the Year 1559. the Marquis of *Final*, who had been Expell'd by 'em out of his Dominions, cited 'em to appear before the Emperor that he might obtain Restitution, tho' they were then under the Protection of *France*; and because they refus'd to submit to the Sentence which he gave, he threaten'd 'em with the Imperial Outlawry, which had been Effectually done, had they not at length return'd to their Duty.

*Pretensions of the King of France to the Principality of
Piemont, and County of Nice.*

TIs above Twelve Hunder'd entire Years since *Savoy* was the first time united to the Crown of *France*, *Clouis* having won it from *Gondebard* King of *Burgundy*, who had sided against him with *Alrick*, King of the *Goths*; in revenge of which, *Clouis* expell'd him out of his Dominions, and reduc'd him to a Pension. But after his Death, he remain'd Lord and Master of it, in Right of his Wife *Clotilda*, the Daughter of *Gondebard*, who dy'd without Issue; and after that, it was never divided more from the House of *France*, tho' it had been given several times in *Appannage*, to the second and third Sons, till the Emperor, *Charles the Bald*, gave the Ancient Kingdom of *Burgundy* to *Bozon*, Count of *Arles*, to which he joyn'd *Savoy*, under Fealty and Homage to the Empire, of which it has always been a Moving Fief since that time.

This Kingdom of *Arles* subsisted no longer then under four or five Kings; the last of which, nam'd *Rudolphus*, dying without Children, *Conrade*, the *Salick* Emperor, invested *Humbert* of *Morienne*, in the Earldom of *Savoy*, who was then Governor of it. *Amedeus*, his Son, succeeded him, and was the Head of the present House of *Savoy*, which is much more Ancient and Illustrious then *Humberts*, descended from the Duke of *Saxony*. However, *France* pretends that all these Investitures are of no Validity, for that the Empire ought to return by Inheritance to her Kings, after the Death of *Charles the Gross*, the last Emperor of the *Carlovingian* Race, from which it had been usurp'd by *Conrade* the *Salick*; and by reason of a Particular Claim of the Crown of *France* to *Savoy*, which had been united and annex'd to it long before the Empire was erected, and which by Consequence ought to be consider'd as one of her Proper Demefnes.

To these Claims *France* adds a Third, which she derives in Right of *Louise* of *Savoy*, Mother of *Francis I.* the Daughter of *Philip VII.* Duke of *Savoy*, who marrying *Margaret* of *Bourbon*, covenanted by her Contract of Marriage, That the Children of that Wedlock should succeed, one after the other, to the Whole Dutchy. Now he had two Children, *Philibert* and *Louise*, who pretended to succeed to the Dutchy, after the Death of her Eldest Brother. But he had still two Male Children, besides *Charles* and

and the Duke of *Nemours*, who were the Off-spring of a Second Marriage of *Philip*, and who pretending by vertue of their Sex, that they were to be prefer'd in the Succession, *Charles* the Eldest made himself Master of the Dutchy, with the Consent of the States of the Country. However *Francis* I. after some Expostulations with Duke *Charles*, fell into *Savoy* with a Powerful Army, and having reduc'd it in a short time, march'd into *Piemont*, which he subdu'd in like manner, as well as the County of *Nice*, and all in less then one Summer. In short, he utterly expell'd the Duke out of his Dominions, not leaving him so much as a Foot of Ground, and kept 'em, he and *Henry* II. his Successor, for about Four and Twenty Years, that is to say, till the Peace of *Chasteau de Cambresis*, concluded in the Year 1559. by which King *Henry* relinquish'd to *Spain* above 400 Cities, and 198 Fortresses which had Garrisons in 'em; among which were all those of *Savoy* and *Piemont*, except *Turin*, *Viniers*, *Villa Nova*, *Ast*, *Pignerol* and *Chevas*, which were afterwards restor'd to the Duke by *Charles* IX. and *Henry* III. Nevertheless, because the French will not admit of Treaties to any Bounds to be their Pretensions, they still keep on Foot those Titles which anciently they had to the States of the Duke of *Savoy*.

Enquiries into the Pretensions of the King of France to the Territories of the Duke of Savoy.

'T Is an Old Rubrick of the King of *France*, to pretend a Right to all the Conquests of *Charlemain*, as if the Imperial Crown, and that of *France*, had been one and the same Crown in his time. inseparable and never to be divided; but if ever this Pretence were alledg'd to no purpose, questionless it is upon this Occasion, where the Dispute is about a Moving Fief, and which by all the most notorious Testimony of History, has all along held of the Empire, and which moreover fell by Succession to *Conrade* the *Salick*, so that he had a double Right when he gave the Investiture of this Earldom to *Humbert* of *Moricenne*. Moreover the Dukes of *Savoy* have been always accounted Feudaries of the Empire, and it is also to the Emperors that they are beholding for the Greatest Lustre of their Dignity. For it was not only the Emperor *Conrade*, who Erected *Savoy* into an Earldom, and gave it to *Humbert*; but it had never been a Dutchy, had it not been for the Good Pleasure of the Emperor *Sigismond*, who did it also at the same time that he was at *Paris*. So far was *Lewis* XI. as Politick and quick-sighted as he was, from pretending to any Sovereignty over it. Assuredly in the Year 1514. the D. of *Savoy* took a new Investiture from the Empire, and caus'd the Title of Perpetual Vicar of the Empire to be renew'd to him, which had been granted to his Predecessors in 1336. by the Emperor *Charles* IV. For tho' at the Solicitation of *Andrucus*, Bishop of *Geneva*, and upon the Importunities of some Princes of the Empire, *Maximilian* revok'd it, 1383. Nevertheless the knowing that was given him, is sufficient to make it appear that he held of the Empire only, as now he do's;

the Title of Vicar of the Empire, being an Inferior Dignity, which of necessity requires Submission and Dependence.

As for the Title of *Francis I.* by his Mother *Louise of Savoy*, there is so little Justice in it, that 'tis hardly worth the Taking Notice of it. For in short, where is that Law in the World, unless it be that of pretended Devolution, which ever prefer'd the Females of the First Venter, before the Males of the Second, which would be the overturning of all Ordinary Successions. That Conquest then, to speak the thing as it was, may well be call'd a downright Usurpation, which *Henry III.* did like a Christian, to relinquish in favour of the Lawful Sovereign. And in regard the Treaty of *Chasteau Cambresis* was extremely Solemn and ratify'd by the General Estates, it cannot now in Justice be infring'd.

Pretensions of the King of France to Lorrain.

NOT to perplex our selves with an Impertinent Scrutiny when and how *Lorrain* came first to be annex'd to the Crown of *France*, we shall only say, that all Histories testify that after the Death of *Louis the Debonaire*, it fell to the share of his Son *Lotharius*, who was Emperor, and who gave it his Name, abrogating the Names of *Austrasia* and *Mets*, by which it was call'd before. But after the Death of *Lothaire* and his three Children, *Charles the Bald* got possession of it by Force of Arms, and kept it till *Charles the Gross*, being call'd to the Regency of the Kingdom of *France*, during the Minority of *Charles the Simple*, the General Estates restor'd to him *Lorrain*, in Consequence of which, he caus'd himself to be Crown'd King of it at *Mets*, without the least Scruple. But tho' this Restitution were most just in it self, and so much the more valid and authentic, because the States of the Kingdom had both unanimously and willingly agreed to it, nevertheless *Lewis d'Outremer*, and *Lothair* his Son, pretended that this was no Legal Alienation, and did their Endeavours to conquer it; but the Emperors *Arnold*, *Conrade* and *Otho*, guarded it so well, that the King of *France* could not set his Foot in it. However, because *Otho* had no mind to quarrel with *Lothaire*, he endeavour'd an Accommodation of the Difference, by giving the Investiture of *Lorrain* to *Charles* of *France*, his Brother, erecting it into a Dutchy holding of the Empire. Which was so far from satisfying *Lothaire*, that it did but exasperate him the more, and induc'd him to declare War against the New Duke of *Lorrain*, wherein he was several times beaten. This War occasion'd his Exclusion from the Crown of *France*, which fell to him by Inheritance after the Death of *Lothaire*. For the French afraid least when he came to be their King, he should recal to mind the Injuries they had done him, and seek his Revenge, declar'd him an Enemy of the State, and for ever incapable to succeed, both himself and his Off-spring, Electing in his room *Hugh Capet*, the Son of *Hugh*, Count of *Paris*. From this *Charles* it is that all the Dukes of *Lorrain* are descended even to this day; who have all along pay'd Fealty and Homage to the Emperors, as Princes and Guidons of the Empire.

Besides

Besides this Ancient Title, the Kings of *France* pretend another, deriv'd from *René* Duke of *Anjou*, Titular King of *Naples*, and Count of *Provence*. For the better understanding of which, we must inform the Reader, That *John*, Duke of *Lorraine*, had Two Sons, *Charles* and *Frederick*. *Charles*, as Eldest, succeeded him to the Dutchy of *Lorraine*, and espous'd *Margaret* the Daughter of the Count *Palatine*, by whom he had One only Daughter, nam'd *Isabel*, who was marry'd to *René* Duke of *Anjou*. As for *Frederick*, he marry'd *Margaret de Vandemont*, by whom he had Male Issue, and among others, *Anthony* of *Lorraine*, who had also a Son nam'd *René*. After the Death of *Charles*, *Anthony*, as next Heir Male, seiz'd upon the Dutchy, which *René* Duke of *Anjou* disputed with him, who pretended that his Wife was to be prefer'd in the Succession, as being the only Daughter of the deceased Duke; and not being able to agree, there happen'd a long War between 'em: to which, at last, an End was put by the Marriage of *Toland*, the Daughter of *René* Duke of *Anjou*, with *Fery*, Son of the Duke of *Lorraine*; and by the Contract of Marriage it was covenanted, That the Dutchy should be deliver'd into the Hands of *René* Duke of *Anjou*, during Life; and that after his Death, it should return to *Fery*, and the Heirs of the Body of *Toland*. However, *René*, without any regard to his Promise, nor the Interests of his Daughter, by his Last Will and Testament, declar'd *Charles du Maine*, his Nephew, to be his Heir, not only to the Dutchy of *Lorraine*, but to all the Kingdoms and Countries to which he had any Right. And in regard that afterwards *Charles* constituted *Lewis XI.* his Heir, the Kings of *France* have pretended that by virtue of these two Testaments, the Kingdom of *Naples*, and the Duke-dom of *Lorraine*, are devolv'd to their Crown.

But notwithstanding this Devolution, *Lorraine* remain'd under the real Dukes of it, till these latter Years; till the King of *France* having met with an Opportunity to improve his dormant Titles, and grounding his Pretence upon the Inconstancy and Levity of the last Duke *Charles*, despoil'd him of his Territories, starting afresh Agreements made with him in the Years 1662. and 1663. By which the Duke made *Lewis XIV.* his Heir of the Dutchies of *Lorraine* and *Barr*, upon payment of a Pension of Seven hundred thousand Franks during Life, and Two hundred thousand Livres more in Rents settl'd upon Land which had the Title of a Duchy and Peerdom, with a Clause, That all the Princes of the House of *Lorraine* should, for the time to come, be acknowledg'd Princes of the Blood of *France*, and capable of succeeding, for want of nearer Male Heirs.

Enquiries into the Pretensions of France to Lorraine.

TIS never without an extreme Reluctancy that we mention these far fetch'd, feud, superannuated Titles wherewith *France* provides herself; but we are forc'd to do it, because she herself puts such a Value upon 'em. But among all those which she produces, and which signifie nothing, this is one of the slightest. *Lotharius* the Emperor had *Lorraine* in the Partition of his Dividend; afterwards it fell to his Successors, and was not united.

united to *France*, but by the Usurpation of *Charles the Bald* : which was so clearly acknowledg'd by the States of the Kingdom, that they thought it their Duty to restore it to *Charles the Gross*, as an Inheritance that belong'd to him. Now what lawful Title can the King of *France* deduce from all this? Is Usurpation then a good Title, and Restitution of an ill got Estate a bad Title? For this is that which must be granted to authorize his Pretensions. -It would be more reasonable to say, That the Crown of *France* belongs of Right to the Princes of *Lorrain*, lawful Successors descending from *Charles of France*, the First Duke, who was unjustly excluded from the Crown by the States of the Kingdom, to advance in his room one *Hugh Capet*, the Founder of the present Race. However, in regard that long Possession authorizes 'em, and that far from exciting the Princes to a new War, we could heartily wish that it were in our Power to contribute toward a happy Conclusion of this which torments all *Europe*, we shall not examin whether that Exclusion were of any force or no?

The Title which the King of *France* derives from *René Duke of Anjou*, is no better then the t'other. For who ever heard talk of acquiring Crowns in right of two or three unjust Testators, who bequeath'd 'em to the Exclusion of the lawful Possessors. For in short, the Dutchy of *Lorrain* being acknowledg'd to be a Fief of the Empire, was consequently Male, and ought to have return'd to *Anthony of Lorrain*, the Son of *Frederick*. This is a thing not to be scrupl'd in the least. But suppose that *Lorrain* were a Female Fief, and that *René Duke of Anjou* were the lawful Possessor of it, to the Exclusion of *Frederick* and his Heirs, in Right of his Wife *Isabel*, it naturally follows, that after the Death of his Wife *Isabel*, the Dutchy belong'd to *Yoland* his Daughter, marry'd to *Fery of Lorrain*, and to her Successors; and that all the Last Wills and Testaments made to the contrary, were injurious and unjust, since they depriv'd the Lawful Heirs of the Diadem, to bequeath it to Strangers.

As to the last of the King of *France's* Pretensions, which are grounded upon the Treaties concluded with the deceas'd Duke of *Lorrain*, in 1662, and 1663. it may be said, That they are still less to be justify'd. He treated with a poor Prince, who was craz'd in his Understanding, loose and wavering in his Judgment, and who saw himself in the Power of a Potent Enemy, without any Forces to oppose him; and, lastly, who retracted six Months after from what he had promis'd. Which, if they were not good and sufficient Reasons, it must be allow'd at least, that the King of *France* ought to have perform'd those Agreements which he had covenanted on his part, if he intended to oblige the Duke to perform the Treaty; and that since he did not fulfil his Covenants, the Treaty was effectually dissolv'd. Now, all the World knows that the Duke of *Lorrain* never receiv'd a *Sols*; and that the King of *France* was so far from causing the Princes of that House to be acknowledg'd Princes of the Blood, that he order'd a Remonstrance to the contrary to be presented to him by the Princes and the Parliament, who refus'd to register it; and that actually since that time, as before, the Princes of *Lorrain* have enjoy'd no Rank in *France*. He ought, in like manner, to stand to the Treaties of *Munster*, the *Pyrreans*, and particularly to that
of

of *Nimeghen*; by which the entire Restitution of *Lorrain* is promis'd, with the Sovereignty of *Toul*. Nevertheless, that Article was never yet perform'd; and the King of *France* has had the Cruelty to behold a Prince reduc'd to seek his Fortune among Strangers, without so much as ever minding the Restitution of his Country, which he still detains from him by Force of Arms.

Pretensions of France to the Principality of Orange.

THAT City belong'd formerly to the Kingdom of *Burgundy*, which *Clouis* united to his Crown after the Death of King *Gondebauli*, his Brother-in-Law. But the Saracens afterwards making themselves Masters of it, kept it till toward the Year 800. At what time, *St. William*, Count of *Tholonze*, re-took it from 'em, and for that reason was invested in it by *Charlemaign*. From which Investiture it is that the King of *France* derives his Claim; as also, for that since that time it was annex't to the County of *Provence*, of which it held; and in regard he is at present the sole Possessor of that County, by virtue of the Wills and Testaments of *René of Anjou*, and *Charles du Maine* his Nephew, by consequence he pretends to be Sovereign of the City of *Orange*.

Besides this, the Dutchess of *Nemours* sets up another Title also, upon a pretended Substitution of the House of *Chalons*; by virtue of which, she commenc'd a Suit against the Prince some Years ago, and caus'd the Principality to be adjudg'd to her by a Decree of the Parliament of *Paris*, which was neither set on foot, nor adjudg'd, but by the King's Order. However, the States-General of the *United Provinces* interposing in the Affair, and *M. Heinsius*, who was sent by the Prince, having clearly made out the Invalidity of the Dutchess's Demand, the King was enforc'd to surcease his Prosecution till the Beginning of this War; at what time he made himself Master of it, as he did of several other Places which he found unable to withstand him.

Enquiries into the Pretensions of the King of France to the Principality of Orange.

'TIS true, that *Orange* was formerly a Part of the Kingdom of *Burgundy*; and that a long time after, *Charlemaigne* invested Count *William* in it. But that Investiture destroys the Claim of the French; it being certain, that as Emperor it was, that he erected this Fief, as well as all the rest, and not as King of *France*. This is a Truth that speaks it self, and yet there is no way to make the French understand it. They still return to their Old Assertion, That the Empire was united inseparably to the Crown of *France*, in the Person of *Charlemaigne*, and that therefore by consequence they have a Right of Sovereignty over all that holds of the Empire. Which we leave to the Judgment of all Unbiass'd Persons.

But

But though this Point should be allow'd 'em, they could reap but little Advantage from it, seeing that *René of Anjou* sold, resign'd, convey'd and made-over to *Lewis of Chalons*, Lord of *Orange*, all his Rights of Homage and Sovereignty which he had over that City, for Fifteen thousand Livres, by a Treaty made in the Year 1470. which was afterward ratify'd and confirm'd by *Lewis XI.* who gave Permission to *William*, the Son of *Lewis*, to stile himself, *By the Grace of God, Prince of Orange*; to grant Pardons to Offenders; to Coin Gold and Silver Money; and in short, to exercise the full Extent of Sovereign Power over the City of *Orange*; as he really did, both he and his Posterity, till that Principality fell into the House of *Nassau* by the Marriage of *Philip* with *Elleanor of Bourbon*, by which it was in like manner enjoy'd with all the Prerogatives of Sovereignty. But the King of *France*, for whose Ambition *Europe* is not spacious enough, could not brook such an Independency in the Middle of his Kingdom, which spurr'd him on to set up *Madam Nemours*, and her Chimerical Title, as a Pretence to seize upon the City, or at least to ascribe to himself the Sovereignty of it, by obliging the Prince to Relinquish his Sovereign Jurisdiction, as a Means to prevent the total Loss of it. And indeed, he has at length carry'd to his own Satisfaction, as having not only raz'd the Walls, but blown up the Tower which was one of the most Impregnable Places in all that Country. And one would think he had acquir'd a particular Right over that City, considering how terribly he has treated the Inhabitants of the Reformed Religion, especially the Ministers, whom he still detains in close Imprisonment, though he has releas'd all the rest.

The Pretensions of France to Avignon, and the County of Vennin.

TIS needless here to set forth, how the City of *Avignon* depended at the Beginning upon the Kingdom of *Burgundy*, and afterwards upon the Earldom of *Provence*; 'tis sufficient that the Kings of *France* have possess'd the one by virtue of the other, upon the same Title they pretend at this day to the Sovereignty over it, at least.

Joan III. Queen of *Naples*, sold the County of *Avignon* to *Clement V.* for Sixty thousand Florins; and this Donation was afterwards confirm'd by *St. Lewis*, to terminate the Difference which he had with the Holy See, touching the *Upper* and *Lower Languedoc*; in which the Pope pretended to have a considerable Interest, as having been won from the *Albigens* by the Arms of the Church, against whom she had sent a Croisade under the Leading of the Count de *Montfort*. That War was remarkable for the Death of Five Kings that perish'd therein; and for the famous Battel of *Moret*, wherein *Don Pedro*, King of *Arragon*, was slain. This Battel was fought in the Year 1206. After which, the Count of *Montfort* being Master of the Country, committed most horrid Murthers and Massacres of those poor People who were so steadfast in their Religion, that without any hesitation, they flung themselves into the middle of the Flames with their

their Children in their Arms, rather then renounce their Faith ; nevertheless all these Cruelties which they made use of against 'em, were not sufficient utterly to exterminate 'em ; only they did not appear so numerous as before, till the Year 1534. at what time *Calvin* openly Preach'd those Doctrines which the Reformed averr to be the same with those which the *Albigensis* profess'd. But to return to our Subject : The Pope believing that after those People were absolutely reduc'd, their Country belong'd to Him, erected it into a Kingdom, and invested the Count *de Montfort* in it, under the Title of *King of Occitania*.

The King of *France*, as in Justice he might doe, oppos'd it, alledging that *Gasconie* and *Languedock* had of a long time belong'd to him, and that if his Subjects had rebell'd, and had embrac'd Erroneous Opinions in despite of his Commands, that was no sufficient Reason why he should lose his Provinces, anciently and lawfully annex'd to his Crown. Nevertheless, because he was well enough acquainted with the Spirit of *Rome*, and for that he fear'd the Consequences of that Election, he wheedl'd off the Count of *Montfort*, and to make him amends, advanc'd him to be Constable of *France*, and gave him the Governments of *Poitou* and *Tou- raine* ; and as for the Pope, he pacify'd him likewise, by giving and resigning to him anew, the City of *Avignon*, together with the whole County, which was possess'd by the Holy See already. Whether the King of *France* did well and Politickly in granting so many Honours and Estates to the Count of *Montfort*, upon whom he ought to have look'd as his Enemy, or at least as a Person very much to be suspected, we shall not go about to determine : for the Court of *Rome* was very Potent at that time. She excommunicated and depos'd Kings for a Trifle ; nor was there any Violence or Cruelty which she did not commit under pretence of Religion. This is the Nature of that Court, which will never alter : for tho' she be much fallen from that high degree of Grandeur and Puissance, yet her Genius and her Inclinations are still apparently to be discover'd by the Dreadful Jurisdiction which she Exercises in her Tribunals of the Inquisition. The way which she took to make her self Mistress of the County of *Venezsin*, is another Proof of the same Assertion. For the Count of *St. Giles*, who was Lord of it, being inform'd by the Complaints of a poor Widow, that the Curate refus'd to bury the Body of her Husband, because she had not ready Money to pay him upon the Nail, was so incens'd at such a piece of Inhumanity, that to make him an Example, he commanded a deep Hole to be made in the Ground, and that the Curate should be buried alive, together with the dead Corps, which already began to be very noisome. The Pope, who at that time lay at *Avignon*, order'd the Count to be seiz'd, Excommunicated him, and shut him up in a dark and close Dungeon, where he made him doe Penance for several Years in *pane Doloris*, & *aqua Angustie*. After which, he let him out to undergo the *Amende Honorable*, his Shirt hanging out, his Hands ty'd behind him, and bare Foot ; thus he caus'd him to be lead through the Streets in Procession, and Whipp'd as he pass'd along : and all this done, he forc'd him to renounce his Right to all his Lands and Lordships, and then sent him to Prison again, there to end his miserable days, which were not many : for being

expos'd of a sudden to the Light, after a Tedious Imprisonment as it were in utter Darkness, besides the Severity of his Whipping, all this together with the Ignominy he had undergone, his Grief and Despair of ever enjoying his Liberty wrought such an Effect upon him, that he dy'd in Twelve Days after; leaving to his Posterity a famous Example of the Barbarity of the Court of *Rome*.

This Acquisition, as you see, was not only Unjust, but Tyrannical and Criminal; nevertheless because that by the Treaty of *St. Lewis*, the Holy See has been acknowledg'd Lawful Proprietor of *Venissin*, as well as of *Avignon*, we will not contest it with her, notwithstanding the usual Allegation of the French, That Lands united once to their Crown, are never to be separated by Alienation or Prescription. Which is all the Reflexion we think requisite to make upon this Chapter.

Pretensions of France to the Exarchie of Ravenna, and the County of Pentapoli.

AFTER the Fall of the Roman Empire, the *Lombards* made themselves Masters of *Italy*, and settl'd a Kingdom in it, which lasted about Two Hundred Years, during which time they so terribly oppress'd the Popes, and held 'em in so great Subjection, that they were oblig'd to have frequent Recourse to the Protection of the Constantinopolitan Emperors, or the Kings of *France*. Among the rest, Pope *Zachary* call'd in King *Pepin* to his aid, about the Year 768. against *Rachisus*, Duke of *Friuli*, who was elected King of the *Lombards*, after the Death of *Luitprand*. And History reports, that *Pepin*, after he had pass'd the Mountains, went to *Rome*, where he was Crown'd King of *France*; after which, he march'd against *Rachisus*, and being just ready to join Battel, he made a Solemn Vow, and also caus'd Letters Patents to be drawn up in due Form, to give the Exarchat of *Ravenna*, which contain'd Sixteen Cities, and the Country of *Pentapolis* that comprehended Thirteen, to the See of *Rome*. In performance of which, after the Defeat of *Rachisus*, he himself lay'd the Keys of all those Cities upon *St. Peter's* Altar, by that same Act to render his Donation so much the more Authentick; reserving to himself of the whole Country nothing but the Sovereignty only. However, some time after, *Didier*, who succeeded *Rachisus*, having once more despoyl'd the Pope, *Charlemain* came as his Father, into *Italy*, of which he made himself sole Master, after the Defeat of *Didier* at the famous Battel of *Verseil*, where he was taken Prisoner and sent into *France*. After this, *Charlemain* march'd directly to *Rome*, where he was Crown'd Emperor, and confirm'd to Pope *Adrian* the Donation which *Pepin* had made to his Predecessor of the Exarchie and the Country of *Pentapolis*. And upon these two Donations it is, that the Kings of *France* ground their Pretensions to the Ecclesiastical Estate; for which they have several times demanded Fealty and Homage of the Popes, who as they say, were not invest'd but upon that Condition.

*Enquiries into the Pretensions of the King of France to
the Ecclesiastical State.*

There are many Kinds of Donations; but not to lose Time in unfolding 'em one after the other, we shall only say, that they may be generally reduc'd to two sorts. The one is without any Reserve or Restriction; so that he who gives, has no longer any Right or Claim to any Acknowledgment, or otherwise for the Thing given, which becomes from that very moment the Propriety of him who receives and accepts it. These kinds of Donations were formerly forbid among the *Corinthians*, and some other People who look'd upon 'em as unjust; but they were afterwards authoriz'd by the Law of the Twelve Tables; and more particularly by the Law of Christianity, which recommends to all the World the Act of Giving, without any Expectation of Recompence, but that of Well-Doing, according to the Precept of the Gospel, *that it is better to Give than to Receive*, more-especially to those who are in want. The Second sort of Donation properly concerns the Usufructuary Enjoyment and Benefit only of the thing given; so that He who receives it, is after that bound to Acknowledgment and Fealty to his Benefactor. All Fiefs *in Capite* held of the Crown, are of this Nature. Now the Question is, whether the Donations of *Pepin* and *Charlemain* are of this Second Nature. For in this case there is no contending with *France* for the Right of Sovereignty over the *Exarchat* and *Pentapolis*. But in regard the Originals of these Ancient Acts are lost, we are oblig'd to refer our selves to History, which asserts nothing Positive as to this Matter of Fact. It only tells us, that after those Donations, the Popes had so great a Respect for the Emperors and Kings of *France*, that Pope *Adrian* being cited before *Lewis the Debonaire*, he made no Scruple to appear in order to the justifying himself. *Sigonius* also reports and assures us, That he had seen several Acts of Submission made by the Successors of *Adrian* to the same *Louis the Debonaire*, and *Charles the Bald*; which never could have been, had they not been look'd upon as Vassals to the Crown of *France*, for the Countries given 'em by King *Pepin*. 'Tis true, that we might alledge what has been said before of other Investitures granted by *Charlemain*, that he Confer'd 'em only as Emperor, and so, that the Ecclesiastical Estate ought to hold of the Empire, and not of *France*. But in regard we find that *Pepin* had made the Donation before *Charlemain*, and that the Latter did but confirm the Donation of the Former, that Reason would not be of any force. The only Reason therefore that can be alledg'd against the Pretensions of *France* in this case is, that they are absolutely prescrib'd and lost by vertue of a Possession of several Ages; besides, that it is of as great Importance for the Good and Repose of *Europe*, that the Pope should not be subject to any Prince, as it is of highest Moment that he should not usurp any Right or Authority over the Temporalities of Princes. The Reason is, because the Monarch of whom he held, whether Emperor or King of *France*, who are already but too potent, would then become more

powerful still, by means of the Spiritual Power which they would then have at Command as well as their own Temporal. So that 'tis the Interest of the Christian Princes, not to suffer any Changes in that particular.

Pretensions of the King of France to the County of Nice.

THis County or Earldom, which is very large, was always united to the Earldom of *Provence*, of which it made one part, till the time of *Joan*, Queen of *Naples*, whom *Charles de Duras* put to death. And because after that, all her Dominions were dismember'd, *Charles* having seiz'd upon the Kingdom of *Naples*, and *Lewis* Duke of *Anjou* upon the Earldom of *Provence*, the Duke of *Savoy*, also made himself Master of *Nice*, which he might the more easily doe, because the People of the Country Voluntarily surrender'd themselves up to him. However, *René* of *Anjou*, the Son of *Lewis*, about the Year 1464. was very urgent with the Duke of *Savoy*, to deliver up *Nice* into his Hands, alledging, that it was an Ancient Dependence upon *Provence*, which all his Predecessors had enjoy'd without any Contradiction, and successively, as appear'd in *Berenger*, *Charles*, *Robert* and *Joan*: From whom he Claim'd his Right by vertue of an Adoption of his Grandfather by that Lady. Adding, that it signify'd nothing to alledge the Voluntary Submission of the Inhabitants, who had no Right to withdraw themselves from their Obedience due to their Lawful Sovereign. These were *René's* Reasons at that time, upon which he undertook a War against the Duke of *Savoy*; and these are the Reasons which the King of *France* alledges to justify his Pretensions to the County of *Nice*.

Enquiries into the Pretensions of the King of France to the County of Nice.

THe Duke of *Savoy* has reason sufficient to dispute the Adoption of *Lewis*. *Joan* was a Woman of a lewd Life, who had not power to dispose of her Estates; and so much the less, because that what she did was only out of Revenge against the King of *Arragon*, her really adopted Son, because he thwarted her in her Extravagancies, and condemn'd the Infamous Life she led with *Caraccio*, as we have already set forth. So that altho' the way which the Duke of *Savoy* took to make himself Master of *Nice*, should be look'd upon as a Piece of Usurpation, the King of *Spain* had reason only to have complain'd of it, and not the King of *France*, who himself held *Provence* but by a false Title, as we shall make out in a Chapter by it self. However, to justify the Duke of *Savoy* in reference to the King of *France*, we must needs say, that setting aside the dubious Conjunction of Affairs after the Death of Queen *Joan*, who left behind her Titles very disputable to several Pretenders, at what time the Inhabitants of *Nice* might with justice enough, make use of the Opportunity to regain their Liberty, or else to surrender themselves into the Power of some other Sovereign,

Sovereign, better able and nearer at Hand to protect 'em, I say, we must needs averr, that the Duke of *Savoy* has acquir'd a Title that the King of *France* cannot dispute against him, by the Treaty which *Amedeus* Duke of *Savoy* made with *Yoland*, Mother and Governess of *Lewis III.* by which *Yoland* acknowledging that *Lewis* her Son was indebted to the D. of *Savoy*, in the Summ of a Hunder'd and Sixty Thousand Livres, which he was no way in a Condition to repay, she did therefore relinquish, convey, and make over to him the Sovereignty and Propriety of the County of *Nice*, with all its Dependencies; and in regard this Resignation was renew'd by the Peace of *Cambrai*, and two other Treaties that follow it, and after that, also, by *Hen. III.* in his Passage through *Piemont*, when he return'd from *Poland*, 'tis Evident that the King of *France* has no Title to this County.

Pretensions of the King of France to the Dutchy of Deux Ponts, Montbelliard, Strasburg and Casal.

There was never any thought of pretending to the Dutchy of *Deux Ponts*, nor to the Pincipality of *Montbelliard*, till after the Erecting of a Chamber of Justice at *Metz*. The *Sieur Ravaux* having found it out in his Papers, that both the one and the other were Fiefs held *in Capito* of the Bishoprick of *Metz*, notice was given of it to the King of *Sweden* and the Prince of *Montbelliard*, and upon their Refusal to pay Homage and Fealty, they were outed of their Possessions, more-especially the Prince of *Montbelliard*; for as for the King of *Sweden* he never enjoy'd his Dutchy. The King of *France* had taken care from the Beginning to make himself Master of it, under pretence of keeping it till the Difference between the King of *Sweden* and his Uncle *Adolphus*, was decided. For the first pretended to it as Heir to the King his Father, and the latter as nearest of Kin to the last Duke, and consequently Presumptive Heir. The King of *France*, who would have been glad to have had the King of *Sweden* for his Feudatary, made him an Offer of the Dutchy, provided he would doe him Homage. But that Prince who has a Courage too haughty to stoop, and who began to disgust the Proceedings of *France*, positively declar'd, That he would never accept the Investiture of that Dutchy but from the Emperor, of whom the Dutchy really and truly held. So that the King of *France* being nettld with that Answer, gave it the Prince of *Birkenfield*, who having no Title to it, accepted it with Joy upon any Condition they were pleas'd to impose upon him.

As for the City of *Casal*, in regard it was absolutely necessary for the King of *France* to be Master of it, to the end he might have a Door open into *Italy* whenever he desir'd it, there was nothing which he more eagerly desir'd, and he solicited the Duke of *Mantua* a long time to sell it into his Hands, or Exchange it for some Equivalent in the Heart of his Kingdom. But the Duke withstood his Temptations all along; for he well knew 'twas the way for him to incurr the displeasure of the King of *Spain*, and of all the Princes of *Italy*. But at length, want of Money forc'd him to truckle, which

which the King of *France* gave him, and then he admitted a French Garrison into the Citadel, about Ten Years ago. Since which time, the French have held it; and because they have disburs'd a Summ of Money, they imagine they have a Right to it beyond all Contradiction.

But if *Casal* were necessary for the King of *France* on *Italy* side, he had no less occasion for *Strasburg* on that side next to *Germany*. 'Tis a City that might easily have been made very strong, as since we have seen; and which moreover, being both large and wealthy, was able plentifully to supply the Necessities of the Army. In a word, it lay convenient for the King of *France*, and this Title, which his Council look'd upon as sufficient and lawful enough, produc'd another, which at least might serve for a good Pretension, and that was the new Title of Dependency. 'Twas therefore given out, that this was the Capital City of *Alsatia*, which having been relinquish'd to him by the Treaty of *Munster*, ought of consequence to belong to him: and upon this Foundation he besieg'd it in the midst of a secure Peace, and by means of a Correspondence which he held with certain treacherous Burgomasters, it was taken in three Weeks. The Emperor, who could not chuse but be extremely troubl'd at this Invasion, set forth his Reasons to the King of *France* by his Ambassador. But his Answer was, That he very much wonder'd, that the Emperor should take it amiss that he employ'd his Arms in the reducing a Rebellious City, that for a long time had incur'd his Indignation. And in regard he was already in Possession, and consequently in a Condition to justify his frivolous Reasons, and for that the Emperor had to deal with the *Turk* at the same time, there was no other way but patiently to swallow the Bitter Morfel.

Enquiries into the Pretensions of the King of France to the Dutchy of Deux Ponts, Montbelliard, Casal and Strasburg.

THE Usurpation of the Dutchy of *Deux Ponts* is so manifest, that it would be loss of Time and Words to go about to prove it. The King of *Sweden* and the Duke his Uncle, are in dispute about the Succession to the deceased Duke of *Deux Ponts*; and the King of *France* seizes upon it under colour of Keeping it till the Difference be decided, to whom it belongs. Afterwards when they are agreed, he sets afoot certain Titles that were never so much as heard of before, and gives 'em to understand, that they had been all the while contending for the Bishops Rochet, according to the Proverb, and striving for that which was none of their own: then which there could be nothing more Unjust. Methinks I hear this Doctor of the Civil Law cry to the two Pleaders in the Select Fables, 'Twas a good Oyster, Gentlemen; go and live in Peace.

There is a little more appearance of Equity in the taking of *Casal*: for when a Man purchases a thing and pays for it, 'tis naturally a good Acquisition. But after all, was it in the Power of the Duke of *Modena* to sell it without

without the Emperor's Consent ? For *Casal* is a Fief of the Empire, and by the Golden Bull, it could not change its Master, but by vertue of an Investiture, which the New Possessor is bound to obtain of the Emperor, but which the King of *France* was so far from demanding, that he declar'd, He thought himself too Great a Lord to hold of any one whatever, and that he knew well enough how to put himself into Possession without the help of any other Person. This is that which is call'd, *pulling off the Mask*, and he that will not confess it, must be wilfully Blind : especially considering after what manner he made himself Master of the City, which by the Covenants, was to have remain'd in the Hands of the Duke of *Mantua*, the Citadel only having been sold to the King of *France*.

The Case of the City of *Strasburgh* is very near the same ; for whatever the French alledge, the Unjustice of their Proceedings is apparently to be discover'd. The City of *Strasburgh*, (say they) is an Ancient Dependence of *Alsacia*, which could not be dismember'd but by a bad Title ; and which by the Right of Re-union, ought to return to the Whole, from whence it was separated. Which if it were so, how comes it to pass, that all the Cities of *Europe* have acknowledg'd it for a free City for above these Two Hunder'd Years ? And wherefore had the King of *France* his Ministers always residing there, till it was reduc'd ? And why was he wont to Treat with her, which he was frequently wont to do, as with a State which had no Dependence in the World upon him ? This Speaks it self ; there needs no Commentary : wherefore we shall conclude this Chapter, and at the same time all that we have to say to the Pretensions of the King of *France*, with a Verse of *M. de la Fontaine* Extreamly Suitable to his Conduct, *The Reason of the Strongest always is the Best*.

THE
Claims and Pretensions

Of the Most Serene
Confederates,
TO
FRANCE, and the Conquer'd Countries.

P A R A G R A P H II.

The Claims and Pretensions of the Emperor to France.

BY the Partition of his Empire which *Constantine the Great* made to his Children, the West fell to the two Younger Sons, under the Title of the *Western Empire*; which subsisted in the Persons of the Successors till *Augustulus*, who lost it in the Fifth Age, to the *Goths*, *Vandals* and *Lombards*, who sackt and ruin'd every Corner of it, insomuch that it was absolutely dismember'd; which occasion'd the Rise of so many Petty States. For every Prince and every Government seizing upon a Fragment of this prodigious Wreck, some parcell'd out for themselves an Earldom, others a Dutchy: Some Cities also, taking their Advantage of the Revolution, regain'd their Liberty, and set up Republicks. But at length, after an Interval of about Three hundred Years, the Western Empire came to

to be establish'd in the Person of *Charlemain*, who re-united under his Imperial Dominion, *Germany*, *Italy* and *Spain*, from whence he expell'd the Moors. In the Year 800. he was Crown'd Emperor by Pope *Leo*, to whom he gave the Exarchat of *Ravenna*, or rather, confirm'd the former Donation of *Pepin* his Father. And two Years after, the Partition of the Two Empires was adjust'd with *Nicephorus*, Emperor of the East; and the River *Loranto*, or *Castiliano*, was agreed to be the Bounds of Both Empires in *Italy*.

Certain it is, that in this Third Re-establishment, or Foundation of the Third Empire, it was Hereditary; for that all Histories testifie, That *Lewis the Debonaire* succeeded *Charlemain*, *Lothaire Lewis*, and so the rest, without the least Scruple or Contradiction, for a Hunder'd Years and more together, while the *Carlovingian* Race reign'd in *Germany*; till being Extinct by the Death of *Charles the Gross*, *Conrade* Duke of *Franconia* was Elected Emperor by the Princes, Ecclesiastical Lords, and the Deputies of the Cities representing the People. The Cities also, and Lords of *Italy*, had a Determinative Voice at those Elections, as it is apparent by the Elections of *Henry IV.* *Lothaire II.* and *Conrade III.* But after *Frederick I.* the Germans appropriated to themselves alone the Right of Electing the Emperors; and in process of time, it was contracted into the Hands of Seven great Officers of the Empire, which at this day are call'd Electors. It would be a difficult thing to affirm positively, when or how this was done: for if we may believe Cardinal *Baronius*, it was Pope *Innocent IV.* who instituted the Seven Electors in the First Council of *Lion*, in the Year 1245. But if we will referr our selves to *Thuanus* and *Textor*, it was the Emperor *Otho III.* who created 'em, in the Year 1001. Or if we will follow the Opinion of the Abbot of *Usspergh*, this Constitution was concluded under the Reign of *Frederick II.* in an Assembly of the Princes. However it were, it is acknowledg'd by all the World, that *Charles IV.* confirm'd this Custom of Electors by a famous Decree call'd the *Golden Bull*, by reason of the Seal of Gold that is affix'd to it. It was made; read, and publish'd in the Diet held at *Norimberg*, in the Month of *January*, 1356. and contains all the Regulations requisite for the Form and Ceremonies of Elections, and whatever concerns the Government of the Empire; which hitherto has been rigorously observ'd, without the least Innovation, only that the Number of Electors, which was no more then Seven at first, that is to say, Three Ecclesiastical, the Archbishops of *Mayence*, *Treves*, and *Cologne*; and Four Secular, the Duke of *Saxony*, Count *Palatine*, Marquis of *Brandenburgh*, and King of *Bohemia*; of latter Times there have been added Two more, the Duke of *Bavaria*, and the Duke of *Hanover*.

But that we may return to the Emperor's Pretensions to *France*, we must say, That they are ground'd upon the Partition made among the Children of *Lewis the Debonaire*. This Partition was regulated and order'd in his Life-time. However, after his Death, the Sons not satisfy'd with their Allotments, would needs try the Fortune of their Arms; insomuch that they wag'd War one against the other, with extraordinary Heat and Fury, till the terrible Battel of *Fontenay* being fought, wherein there perish'd above a Hunder'd thousand Men, the Three Princes found their

Forces equally exhausted; and desiring nothing more than an Accommodation, by common Consent refer'd their Interests to the Pope, who confirm'd the Partition which *Lewis the Debonaire* their Father had made; by which the Empire, with all the Territories on the other side of the *Meuse* and the *Scheld*, as far as the *Rhine*, where now lie the Provinces of the *Low-Countries*, *Liege*, *Treves*, *Juliers*, *Luxemburgh*, together with all the Country beyond the *Saone*, and the *Rhine*, where now lie *Franche Comté*, the *Savoy*, the *Dauphinate*, *Provence*; and in short, all *Italy* fell to *Lothaire*, who was the Eldest: *Lewis II.* had *Germany* and *Hungary*: and *Charles the Bald*, the Youngest of the Three, had *France* for his share, upon Condition, however, To hold of the Emperor *Lothaire* by Fealty and Homage as well as his Brother *Lewis*: and in case they happen'd to die without Issue, that their Dominions should be united to the Emperor: which happen'd in the Person of *Lewis*, surnam'd the *Germanic*. Upon this Homage, agreed by *Charles the Bald* to his Brother, it is, that the Emperors ground their Pretensions to the Crown of *France*.

Enquiries into the Pretensions of the Emperor to France.

WE have already set forth the Pretensions of *France* to the Empire; now you have heard the Pretensions of the Empire to *France*. The business is, how to reconcile such different Interests as these of which we have already spoken, and those of which we are now to discourse. Without doubt, it would prove a Matter of great Difficulty; so that we shall not undertake to prescribe the Means. We only set down Things as they are; and we set forth, in our *Enquiries*, one part of the Reasons *pro* and *con*, without pretending to captivate the Sentiments of the Reader, who may dispose of his Judgment as he pleases, which is a Right of his, that in Justice ought not to be anticipated. According to this Maxim then, we must assert, with the same Sincerity which we profess, That the Claims of the Empire, though they are of a fresher Date than those of *France*, yet are they not sufficient to authorize a just Molestation of the Most Christian Kings. We know likewise very well, that it is not above Two hundred Years ago, that an Emperor came into *France*, and that he was receiv'd at *Paris* with the Ceremonies that were anciently observ'd at *Rome* upon the Entries of the Emperors; for he was preceded, though at high Noon, with Two hundred Flambeaux of Virgins Wax; the Peers of the Kingdom were present, and all the Courts of Justice went to Harangue him. In the same Capital City also he exercis'd all the most Essential and Remarkable Acts of Sovereignty: for he took his Seat in the Parliament, created Knights, and declar'd Count *Amadeus* Duke of *Savoy*, and Prince of the Empire. To this may be added, That in the Impartial Reign of the *Carlovingian* Race, *France* held of the Empire; and that after the Death of *Charles the Gross*, *Conrade* caus'd *Charles the Simple* to acknowledge Fealty, and do him Homage. And lastly, That *Charles VII.* made no scruple to accept of the Title of *Vicar of the Sacred Empire*, which render'd him Inferior to the Emperor. But after all, these Reasons that were good
at

at that time, cease to be so now. If they would have preserv'd 'em, they ought to have kept 'em up, and renew'd 'em, from time to time, by Acts of Sovereignty, by Demands and Protestations, and not to have suffer'd 'em to lie dormant for above Two Ages: Prescription being sufficient to abrogate Claims and Titles, in their Original the best that ever were in the World.

The Pretensions of the Emperor to the City of Metz, Toul, Verdun; and the Just Interests those Cities have in their own Liberty.

THE Pretensions of the Emperor to these Three Cities, extend no further then only to the Sovereignty, and consequently are well grounded; because 'tis well known that they have all along been Fiefs immediately depending upon the Imperial Crown, as well as that of *Liege*, which is at this day a Member of the Empire.

'Tis true, that in the Year 1090. when *Godfrey of Bouillon*, Duke of *Lorraine*, was preparing for his Expedition to the *Holy Land*, these Four Cities, which were his own by Right of Property, redeem'd themselves out of his Hands. *Metz* gave him a Hunder'd thousand Crowns, *Liege* a Hunder'd and fifty thousand, *Toul* Fifty thousand, and *Verdun* Thirty thousand. But besides that this Sale, by virtue of which they became Republicks, was so far from giving any Right to *France*, that it displays the Injustice of her Possession, it may be added, That *Godfrey* had no Right to sell, nor did he really sell any more then his own Property, without any Prejudice to the Sovereign Rights of the Imperial Crown. However it were, 'tis certain, that from that time, till the Year 1551, they continu'd Free and Imperial Cities, such as at this day are *Ulm*, *Frankfort*, and *Norimberg*, excepting the Authority of the Bishops in those Places, which was much like that which the Bishops of *Liege* and *Munster* enjoy in their Cities.

This continu'd (as we have said) till the Year 1551. at what time they fell under the Obedience of the Kings of *France*. For the Emperor, *Charles V.* at that time most violently persecuted the Protestants of *Germany*; who thereupon call'd to their Assistance *Henry II.* as being the greatest Enemy *Charles* had, and the most able to defend 'em. *Henry* sent the Constable *Montmorency* with a powerful Army, who would needs pass thorough *Metz*. Presently the Citizens, not dreaming of any Harm, open'd their Gates, and let him in; and not only himself, but as many of the Soldiers as thought fit to enter. A Fault so much the more inexcusable, for that a Petty State ought always to be continually mistrustful of her Protectors, who generally seek Occasions only to make themselves absolute Masters of those that have recourse to 'em for Aid. This Truth, which all past Ages, and a thousand Experiences have render'd Famous, was either unknown to Them, or else they thought it not convenient to be so Prudent. They thought the King of *France* would have been so generous, as to grant 'em his Assistance gratis, and without any other

Design but that of humbling *Charles V.* his Enemy : so that the Constable accomplish'd his Design with all the Easiness he could desire. He enter'd the City, and after he had got into it as many Officers and Soldiers as he thought convenient, he feign'd himself sick, and sent for the Mayor and Sheriffs, telling 'em, That he desir'd 'em to be Witnesses to his Last Will and Testament, besides several other things of Importance which he had to reveal to 'em. But when they were met together in his Chamber, he started up of a sudden, and stabb'd the Mayor with his Dagger to the Heart. The Signal being thus given, the Officers did the same to the Sheriffs; and then crying, *The Town's our own*, drew their Soldiers together in a moment, seiz'd upon all the most considerable Places and Avenues, especially the two Gates at which they enter'd; so that neither the Burgeses, nor the small Garrison they had, were in a Condition to make any Resistance. *Toul* and *Verdun* follow'd the Fate of *Metz*, the last of which Cities the King of *France* gave to the Cardinal of *Lorraine*. However, after this, the Protestants of *Germany* would never confide in him more, but forsook both him and his Assistance altogether. So that *Charles V.* accomplish'd his Designs with Ease; and having defeated 'em, depos'd the Duke of *Saxony*, and invested his Youngest Son in the Electoral Dignity. After which, puff'd up with his Victory, he sat down before *Metz* with a powerful Army, and Six and forty Pieces of Cannon; but through the vigorous Resistance of the Duke of *Guise*, who Commanded in the Town, he was constrain'd to raise his Siege with considerable Loss. Since which time, these Cities have never been separated from the Crown of *France*.

Enquiries into the Pretensions of the Emperor to the Three Cities of Metz, Toul, and Verdun, &c.

THE bare Reherfal after what manner the King of *France* made himself Master of these Three Cities, is sufficient to make it evidently appear, that he holds 'em by no Just Title. 'Tis true, That from the time of *Henry II.* till the End of the Reign of *Lewis XIII.* they kept 'em only under the Colour of Protection; and all Litigious Controversies were remov'd to the Imperial Chamber of *Spire*. But about the Year 1633. *Lewis XIII.* believing that a Possession of about Seventy or Eighty Years, was enough to make him a just Proprietor, declar'd himself Sovereign Lord of 'em, and settl'd a Parliament there, to which he subjected all the Country. His Reasons were, because that *Henry II.* had seiz'd upon 'em as an Imperial Estate, being at War with the Emperor; since which time, the Restitution of 'em had not been stipulated in any Treaty. That the Rights of the Empire were so far vanish'd and lost on this side the *Rhine*, as if the Lands lay open to the *First Occupant*: thus Originally *Holland* and *Switzerland* held of the Empire though now they were acknowledg'd to be Sovereign States. To all this he added the Consent of the People, who had willingly exchang'd his Protection into Subjection to his Government. But notwithstanding all this, 'tis evident, that these Cities were usurp'd by manifest Violence.

Violence and Treachery; and though the Consent of the People be acknowledg'd, they underwent this Alteration of their Condition as an Oppression: and we doubt not, but that inur'd as they are to French Dominion, they would be cordially glad of their former Liberty, might they have it restor'd 'em. However, were it not, but that on the contrary, the Citizens of *Metz*, *Toul*, and *Verdun*, should protest a hunder'd times, that they desir'd to remain *French*, what is to be thence inferr'd against the Emperor? His Rights of Sovereignty remain entire, and the King of *France* is bound to swear Fealty, and do him Homage for the said Cities. This admits of no Contradiction.

*Pretensions of the Emperor to Provence, the Dauphinate,
and Languedoc.*

NEither do these, any more then the former, extend any further then the Sovereignty. For which reason, without looking back to the Partition between the Children of *Lewis the Debonaire*, by which you will find that those Provinces fell to *Lothaire*, we must say, That since that time, they were a Part of the Kingdom of *Burgundy*, which held of the Empire; and that after the Death of the last King, being re-annex'd to the Body of the Empire, they were again alienated under the same Condition of *Liege Fief*, and Homages by *Henry the Emperor*, who erected the Earldom of *Arles* into a Kingdom, in favour of Count *Bozon*; which happen'd upon this Occasion. The Empress was accus'd of Adultery by the Prince of *Anhalt*, and the Count of *Mansfeld*. *Bozon*, who thought he knew her to be a Vertuous Lady, could not brook so great a Calumny, and therefore resolv'd to defend her by Force of Arms, according to the Customs of those Times. Thereupon he went to the Emperor's Court, but *incognito*, and arm'd at all Points presented himself on Horse-back before the Gate of the Palace, and there fix'd up a Challenge against those that accus'd the Empress of Unchastity, either to make good their Calumny, or fight him. Immediately the Emperor sent for the Prince of *Anhalt*, and the Count of *Mansfeld*, and order'd 'em to undertake the Combat: but they were both vanquish'd; and *Bozon* having laid 'em sprawling upon the Ground, constrain'd 'em to confess the Truth. A Third also, who would maintain the two former to be Persons of Honour, had the same Destiny. Which done, *Bozon*, thus Victorious, retreated, without so much as lifting up the Vizer of his Helmet, and return'd Home. But the Emperor, impatient to know him, caus'd him to be follow'd; and understanding who he was, sent Embassadors to him, on purpose to return him Thanks, and gave him a Part of the Ancient Kingdom of *Burgundy*, with the Title of King of *Arles*; of which he was King, both He and his Successors, for Four Generations, till the Race failing, the Kingdom return'd to the Empire, by Right of Reversion and Succession; the Emperor *Conrade II.* who reign'd at that time, being Brother-in-Law to *Rodolphus* the last King, who bequeath'd him his Kingdom upon his Death-bed. By which means, the Empire

Empire acquir'd a Title to that Country ; or rather corroborated the former: for all the Kings of *France*, of the Second Race, or of the Third Race after them, never pretended to it. After the Death of *Rodolphus* it was, that the Archbishop of *Treves* took upon him the Title of Chancellor of the Empire *per Regum Aretense*. At length in Process of time there were four particular Lordships or Signories erected in the Kingdom ; that is to say, the Earldoms of *Provence*, the Dauphiny of *Viennois*, the Counts of *Morienne*, afterwards Dukes of *Savoy*, and the Counts of *Burgundy*, all holding of the Empire, as the Dukes of *Savoy* do at this day. As for *Provence*, it came to the Crown of *France* in 1482. by the last Will and Testament of *Charles du Maine* in favour of *Lewis II.* And the Dauphinate was given to *Philip de Valois*, by *Imbert Dauphin* in 1343. upon Condition, that from thenceforward the First Son of *France*, and Presumptive Heir of the Crown, should take upon him the Title of Dauphin, and bear his Arms quarter'd with that of the *Dauphinate*.

*Enquiries into the Pretensions of the Emperor to Provence,
Languedoc, and the Dauphinate.*

TIS an Axiom in Law not to be contradicted, That no Possession can be enjoy'd by a Better and Freer Title then that of Acquisition, unless there be a Franchisement by latter Agreements. If *France* had made any such Agreement with the Empire, there is some Probability of Reason for her Pretensions; tho' in truth it be not in the Power of any Emperor to alienate the Fiefs of the Empire, of which he is only the Protector and Usufructuary. But never was any Grant of that Nature made by the Emperors ; so far from it, that they have always protested against it. *Charles* the First also, enter'd *Provence* with an Army in the Year 1536. with a design to re-conquer those three Countries, or at least to enforce King *Francis I.* to do him Homage. But as for *Provence*, he pretended to the Propriety of it, because the Constable of *Bourbon* had convey'd to

Bellay in his 12th. Book of his Works, says, That it was at the Instigation of the Chancellor du Prat, that *Francis I.* and the Queen his Mother, contested with him the Succession of *Susan of Bourbon* his Wife, tho' there were nothing more Equitable, and that the Constable mistrusting the Sincerity of his Judges, and fearing that if he lost his Suite, he should be sent a Begging, by the means of *Adrian de Croy*, Count of *Rieux*, sought to Treat with the Emperor, to whom he resign'd his Right, and put himself into his Service.

him the Title which he had by vertue of the last Will and Testament of *Anne* of *France*, his Mother-in-Law, in whose Favour *René* of *Anjou* had made a Particular Conveyance which destroy'd that of *Charles du Maine* his Nephew. All this added together, making that which is call'd in the Law *Confusio*, and not being render'd invalid by any Contrary Agreements, leaves the Empire an undeniable Title to those Provinces.

The Pretension of the King of Spain to Alsatia.

BEfore we come to the Particular Concerns of the House of *Austria*, it will not be amiss to give some short Account of the Original of it, and of the means by which it arriv'd at so High a Pinnacle of Grandeur wherein it was in the Time of *Charles V.*

The Generality of Historians are not agreed in their Opinions concerning the Original of the House of *Austria*, no more then in a great Number of other Revolutions as Memorable as that. But according to the Sentiments of *Trithemius*, *Larius*, *Piesdorpus*, *Munster*, *Thieri*, *Fierdorpius*, and some others, it descends from the House of *France*, and takes its Rise from *Sigebert*, the Son of *Theodebert*, who at that time contending with his Brother *Thieri* for the Kingdom of *Metz*, was murder'd by his Mother *Brunchault*, who not content to have embro'd her Hands in the Blood of her Son, persecuted her Children also, one of which she murder'd and caus'd the other to flye the Kingdom, and to seek to the Emperor *Lothaire* his Kinsman for shelter. This was that same *Sigebert* who built the Castle of *Habsburg*, which the Emperor for his sake erected into an Earldom; and from whom descended all the Earls of that Name, till *Rodolphus*, who was elected Emperor in 1275. and who invested his Son *Albert* in the Dukedom of *Austria*, from whence he took the Title, which his Successors have continu'd ever since. This Emperor was Emperor after his Father; but when he dy'd, the Empire devolv'd into another Family: Nor did it return to the House of *Austria*, till the Year 1438. under *Albert* the II. and sincethat to this very Day, it has all along continu'd in it. Upon the Death of *Charles V.* this House was divided into two Branches: To his Brother *Ferdinand* he left the Empire; and to *Philip II.* his Son, he gave *Spain* with all the Dependencies belonging to it. That Great Monarchy fell to his House by the Means of two Marriages. The first, was that of *Maximilian*, *Charles* the Fifth's Grandfather, with *Maria*, the Heiress of *Burgundy*, who brought him for her Dowry the Earldom of *Burgundy*, the Four Dutchies of the *Low-Countries*, viz. *Brabant*, *Luxemburgh*, *Limburgh* and *Gnelders*, and the Earldoms of *Hainault*, *Namur*, *Holland* *Zutphen*, *Malines*, *East Frise*, *Over Yssel* and *Groninghen*. The Second, which was between the Arch-Duke, *Philip*, the Son of *Maximilian*, and *Joan*, the Daughter of *Ferdinand*, King of *Arragon*, and Heiress of Both *Spains*; that is to say, by her Father's side of *Arragon*, *Catalogna*, *Roussillon*, *Valencia*, *Majorca*, *Minorca*, *Ivaca*, *Fremetire*, *Sardigna*, *Sicily*, *Naples*, *Grenada* and *Navarr*; and by the Mother's side, of the two *Castilles*, *Galicia*, *Leon*, *Asturia*, *Biscaye*, *Murcia*, *Cardova*, *Andalousia* and *Estremadura*. To the Imperial Branch fell the Empire, with the Ancient Patrimony of *Austria*, the Kingdoms of *Hungary* and *Bohemia*, which *Ferdinand* acquir'd by the Marriage of *Ann*, the Daughter of *Lewis*, the last King of *Hungary*. And thus, in few Words, it was that the House of *Austria* rais'd it self, and obtain'd those Titles, by virtue of which it Enjoys so many Kingdoms and Provinces, which no Body can dispute with the

the Imperial Family, without manifesting at the same time a Turbulent Spirit of Contention, and an apparent Thirst after Other Mens Possessions.

But that we may return to the Pretensions of the King of *Spain* to *Alsatia*, we must assert, That they are ground'd upon the same Titles that acquir'd him the Possession of the *Low-Countries*; that is to say, upon the Marriage of *Maximilian* of *Austria* with *Mary* of *Burgundy*; and more particularly upon This, that *Alsatia* really depended upon *Austria*, as being annex'd and united to it by the Emperor *Sigismund*, who gave it to the Dukes of *Austria*, who all along enjoy'd it without any Molestation, till such time as the Emperor *Frederick*, wanting Money to carry on his War against the *Turks*, mortgag'd it to *Charles* the last Duke of *Burgundy*. But he being slain before *Nanci*, and leaving no other Heirs but *Mary* his Daughter, 'tis Evident that that same Province was to be return'd to *Maximilian* her Husband, to whom it belong'd by a double Right.

Enquiries into the Pretensions of the King of Spain to Alsatia.

THE Rights of the King of *Spain* to *Alsatia*, are so plainly made out by what we have already set forth, that there is no need of any Argumentations to make 'em more Evident. Nor is there any other Reason which the French can alledge to the Contrary, then the Resignation of it made to the King of *France* by the Treaty of *Munster*, and afterwards by that of the *Pyreneans*. But in regard that in the same Article, he was oblig'd to pay to the Arch-Dukes of *Inspruck*, by way of Satisfaction, the Summ of Three Millions, which was never yet pay'd, the Treaty is become void, and serves only to confirm and verifie the Right of the King of *Spain*, which was tacitly acknowledg'd by that Agreement; so that his Catholick Majesty has still just Reason to demand of *France* the Restitution of it.

Pretensions of the King of Spain to the Duchy of Burgundy.

AFTER the Death of *Charles*, the last Duke of *Burgundy*, surnam'd *The Bold*, all his Territories, as we have already declar'd, descended to his Daughter *Mary*; but because she was very young when she came to the Succession, and for that *Maximilian* her Husband was otherwise employ'd, *Lewis XI.* of *France* lay'd hold of the Opportunity, and fishing in troubl'd Waters, seiz'd upon several Places within the Territories of *Burgundy*, and particularly of the Dutchy, alledging, That it was an Appenage belonging to the House of *France*, wherein the Right of Female Succession was not to be admitted, and which by Consequence was to return to the Crown, for which he urg'd the *Salick* and Fundamental Law of *France*, that excludes all Females from the Sovereignty. *Maximilian* on the other side maintain'd, That that same Law was no more then a Chimera invented by the Kings of *France*, to justify their Seizing upon every

every Thing that lay for their Convenience, and claim'd that Dutchy as the proper Inheritance of his Wife. And for the Preservation of his Right which he was not in a Condition to defend by the Sword, he took the Golden Fleece for his Order, and charg'd his Escutcheon with St. *Andrew's* Cross, as his Successors doe also at this Day, who take upon 'em likewise the Title of *Dukes of Burgundy*.

Enquiries into the Pretensions of the King of Spain to the Dutchy of Burgundy.

'TIs sufficiently known, that *Maximilian* was Lawful Heir to the Territories of the Duke of *Burgundy*, excepting the Dutchy which remain'd in dispute. The sole Question then is, Whether it were really a Masculine Fief or no? This is that which was very much disputed at the Treaty of *Madrid*, and which it will be a difficult Thing to decide. Not but that we know very well, that from *Meroveus* till *Philip of Valois*, the Masculine Title was not admitted in Apanages, as is to be seen in the Houses of *Dreux*, *Vermendois* and *Courtenay*, which extinguish'd in the Females, and were translated into Strange Families; and to which, had there been any Occasion for it, there would have been as little regard had in the Royal Succession: but because this last House of *Burgundy* was set up since *Philip* who Establish'd that Custom, they will have it therefore to be subjected to it. Nevertheless, if we may be permitted to speak our Sentiments, we believe with the *Spaniards*, that the Dutchy of *Burgundy* is a Masculine Fief for two Reasons. First, because that in the Deed of Gift which King *John* made of *Burgundy* to his Fourth Son, *Philip the Bold*, there is no mention at all made of its reverting to the Crown, for want of Males, nor of any Exclusion of the Females, which however had been an Essential thing, had there been a Design to have settl'd it in that manner. The Second Reason is, because it may be said that King *John* himself held it in Right of his Mother *Joan*, the Daughter of *Robert II.* Duke of *Burgundy*. To which we may add the Resignation of *Francis I.* to *Charles V.* by the Treaty of *Madrid*, wherein he promises to restore it within Six Weeks after his Release, with all that *Charles the Bold* held at the time of his Death, and this in absolute Sovereignty, and without any Reserve; and if the said Restitution were not made, the King of France obliges himself to become his Prisoner again. These are Words extracted out of the Third Article of the Treaty, from which the Kings of Spain have never derogated since, but on the Contrary, have since that, asserted their Rights afresh in the Treaties of *Cambray* and *Crepy*.

Pretensions of the King of Spain to Franche Comté.

They are so just and so clear, that the Kings of *France* never rais'd any Dispute against 'em. This was the First who ever lay'd any Claim to it, or ever pretended that this Province belong'd to him by Right of Devolution, of which we have already spoken in the Chapter concerning the Queen's Titles; wherein because we have set forth the Reasons that destroy the King of *France's* Pretensions, we refer the Reader to the same Chapter, rather then put our selves to the Trouble of repeating the same Thing over again. 'Tis sufficient to say that if the Devolution be quite out of doors, and the Queen's Renunciation of any Validity, the King of *France* had no Right to seize upon *Franche Comté*; and therefore the Title of the King of *Spain* remains in full Force and Vigour.

Pretensions of the King of Spain to Bretaign.

IN the Reign of *Charles VIII.* King of *France*, there were two very Great and Wealthy Heiresses to be marry'd; *Margaret of Austria*, the Daughter of *Mary of Burgundy*, and the other *Ann of Bretaign*. The Marriage of *Charles* with *Margaret* was concluded, tho' not Consummated; but finding that *Maximilian* was about to Marry *Ann of Bretaign*, by whom he should have in Dowry that Spacious Province, he broke off his First Match with the Heiress of the *Low Countries*, to marry *Ann of Bretaign*. Now because the Territories of that Princess held of *Burgundy* by Fealty and Homage, the King of *Spain* pretended that the King of *France* was become his Feudatary for that Province. But in regard that besides the Sovereignty, other Great Interests in the Property it self fell to the Kings of *France*, the Reader is to understand, that after the Death of *Charles VIII.* *Ann of Bretaign* was marry'd to *Lewis the XII.* by whom he had two Daughters, *Claudia* and *Renee*. *Claudia* was marry'd to *Francis I.* and from that Marriage descended *Henry II.* who was the Father of Five Children, *Elizabeth*, *Francis II.* *Charles IX.* *Henry III.* and *Francis Duke of Anjou*. These four Princes dy'd without Children. So that after the Death of *Hen. III.* in the Year 1589. the Male Race of the *Valois* extinguishing, the Crown fell to the House of *Bourbon*, in the Person of the King of *Navarre*. On the other side, *Philip the II.* who had marry'd *Elizabeth*, with great Importunity solicited the General Estates in behalf of his Daughter *Isabel*, who as he pretended was Heir to the Crown, or at least to all the Female Fless, and particularly to the Dutchy of *Bretaign*, which was the Patrimony of her Grandmother *Ann of Bretaign*, and was not to be disputed against him, without Extreame Injustice. But notwithstanding all that he could say or doe, that Province was not to be alienated from the Crown. Nevertheless the King of *Spain's* Interest still holds good; and so far have the Kings of *Spain* been from acknowledging any thing

thing to the Contrary, that they have always renew'd their Claims by Treaties, and other Publick Acts; of which the most Signal was that of *Blois*, in the Year 1584. by which *Lewis* the XII. promis'd, That in case he dy'd without Male Issue, the Duchies of *Milan*, *Burgundy*, *Bretaign*, together with the Signiories of *Genoa*, and *Blois*, should descend to the Duke of *Luxemburgh*, the Son of Arch-Duke *Philip*, in consideration of his Marriage with *Clandia* of *France*, his Daughter; which however was not perform'd: but by the breaking off that Marriage, a New Right fell to the King of *Spain*, because that by the Contract it was covenanted, That if the Rupture happen'd to be on the King of *France*'s part, all the fore-mention'd Territories should fall to the Duke of *Luxemburgh*; as also, that if there were a failure on the Emperor's, or the Arch-Dukes side, they should Renounce all their Titles and Pretensions to the said Dominions. Now this Marriage fail'd on the King of *France*'s part, seeing that he caus'd a Petition to be presented to him in the Name of the General Estates in 1506. by which he was request'd not to accomplish that Match, but rather to give his Daughter to the Duke of *Valois*, as he had resolv'd to do before.

Enquiries into the Pretensions of the King of Spain to the Duchy of Bretaign.

It is beyond all Controversie, that *Elizabeth* of *France*, the Wife of *Philip II.* King of *Spain*, was Presumptive Heir to her Grandmother *Ann* of *Bretaign*, and to have been prefer'd before *Henry* of *Bourbon*, who came to the Crown by a Collateral Title only. But because the *Salick* Law is a Barrier which the French always set up in Opposition to those that lay claim to any of their Provinces, 'tis good to examine whether that Reason be of any Force, and sufficient to Exclude a Foreign Prince, to the depriving him of his Lawful Rights.

We have already declar'd, and we assert it once more, since our Subject leads us to it, That there is nothing more uncertain then the Commencement of that Law, nothing more Scarce to be found then the Original Draught, or any ancient Copies of it, nor any thing so little known as what it contain'd. And it is most certain, that till the Time of *Philip Valois*, it was never so much as talk'd of; Nor do's it signify any thing to alledge, that it was never known in *France* that the Daughters succeeded to the Crown; for indeed an Opportunity never presented it self, and if we may judge of that Article by the Author, 'tis most certain that it would be judg'd to be Apocryphal, for that nothing is so common in the History of *France*, as the Examples of Kings who have alienated and dismember'd their Dominions: witness *Clovis* the First, *Lewis* the Debonair, and almost all the rest that succeeded. Nevertheless, supposing that these two Articles were not invented and foisted in above Four Ages since, as many People believe, but that they were really a Part of the *Salick* Law, it must be always agreed, that they can be no Laws but within the Ex-

tent of the Territories that Compos'd the Ancient Kingdom of *France*, and not in so many other Lovely Dominions as are fallen to it since, with their Privileges and Immunities. We must then take notice before all things, that this Vast Dominion of *France* is distinguish'd into Four Sorts of Countries; Countries of Favour, Countries of Estates, Countries of Conquest, and Countries of Pretension. Countries of Favour are the Ancient Patrimony of the Kings of *France*, and which may be comprehended within the Terms of the *Salick Lands*, containing *Anjou*, *Maine*, the Island of *France*, *Tourain*, *Picardy*, *Beauvais*, and *Champaign*. The Countries of Estates, are they which have been annex'd to the Crown by Marriages, Wills, and Voluntary Donations, as *Bretaign*, *Burgundy*, the *Dauphinat*, *Provence*, &c. Countries of Conquest, are *Normandy*, *Guien*, and *Poitou*, and by the Name of Countries of Pretensions, before the Reign of this present King, were meant *Metz*, *Toul*, *Verdun*, and *Alsacia* only: but at present we may comprehend under that Epithete, all the rest of his Conquests, whether in *Germany*, *Flanders*, or *Italy*. But not to insist upon his Countries of Conquest or Pretension, which are nothing to our purpose, we shall only say, that in respect to those Provinces which are call'd Countries of Estates, that as they enjoy not their Liberties by vertue of any Privileges granted by the Kings out of Benevolence, or by way of Free Gift, but rather upon the Account of their Fundamental Laws and Immunities with which they came to the Crown, and were annex'd to it upon Reciprocal Conditions on both sides, by which the Kings were bound to preserve and maintain em in their Usages, Customs and Franchises, without which they had never consented to their Union, 'tis clear as Day, that the Customs of Succession, which in all Countries is one of the Principal Articles of the Law of Usage, cannot be chang'd or alter'd in any manner; this is Matter of Fact, which being once decided by the Rules of the Civil Law and Natural Right, the Dutchies of *Burgundy* and *Bretaign* will belong to the King of *Spain*, as Successor to the Lawful Heirs. Which being a Truth so certain as it is, yet is it contradicted by the French, whose Fundamental Maxim it is, *Quod non possunt Reges inter se dividi, & quod Regnum divisum in se desolabitur*. But tho' we cannot blame a Prince that endeavours, as much as in him lies, to avoid the Alienation of his Dominions, yet on the other side, the Laws of Equity will not permit us to approve the Proceedings of a Prince, who building upon this Foundation, shall unjustly detain a Dominion that no way belongs to him. And indeed, were it needful to produce Examples here, that under the two First Races, Alienations of the same Nature were made in the behalf of Females, and that afterwards the Masculine Claim was not admitted in Apanages, it would be easie for us to cite twenty against one; and therefore if we do it not, 'tis only to avoid Prolixity. In short, 'tis sufficient to read the History of *France*, for any Man to be Convinc'd; and thither it is that we therefore refer all those that are as yet unsatisfy'd. There they will see how many times the Sons of the Houses of *France* have ended in the Daughters, who have translated their Signiories into other Families, as appears by the Houses of *Dreux*, *Fernandois*, *Courtenay*, and others, and that the Dutchy of *Burgundy*,

Burgundy, though the First Fief, and of the greatest Importance, return'd not to King *John*, but in Right of his Mother *Joan*, who was Daughter and Heir of *Robert II.* And seeing that the same King *John* gave it to his Son *Philip the Bold*, by virtue of the same Title that he acquir'd it, 'tis evident, that 'twas without any Reservation, and not in Male Apanage, as the French pretend; though this severe Law was constituted in his Father's time, as we have already observ'd.

Nevertheless, upon this it is, that they ground their most plausible Reasons. For say they, Though it be known that King *John* was Grand-child to the Duke of *Burgundy* by his Mother's side, however since the Law of Apanages was then establish'd, we ought to suppose that that Territory fell to him rather by Right of Reversion than otherwise. Which being so, it may be then asserted, That when King *John* gave it to his Son *Philip*, upon the same Title and Conditions that he receiv'd it himself, it was as a Male Apanage, because it did not return to him but by the Extinction of the Males. To dissolve this slight Objection, there needs no more but to come to the Fundamental Point of the Question, Whether King *Philip* of *Valois*, and his Successors, had a Power to Change the Municipal Laws of the States which had been United to their Crown by Marriages, Wills, Voluntary Deeds of Gift, or other such like Contracts, without a General, Positive, and Authentick Consent of the States of the Country, resolv'd on in a Full and Free Assembly, set down in Writing, and sign'd by all the Principal Members of the Three * Orders? Now, far was that from being done in respect of any one of the Provinces in particular; nor do we find that since either *Philip de Valois*, or any one of their Predecessors or Successors, have settl'd any thing in relation to their Ancient Crown, either by the Consent of the States of the Kingdom, or of their own single Authority; all their Pretensions have no other Ground than a Supposition which they would deduce from an unknown Law, that they have taken no body knows from whence, and which, though it were as real and certain as it uncertain, could be of no Force, but only in the Extent of the Ancient Kingdom of *France*. But 'tis not of late Days that this Question has been debated. In the time of *Edward* King of *England*, there were whole Volumes written upon this Subject; and since that time, the Successions of *Burgundy*, *Bretaign*, and the Affair of the *Regale*, found the Historians a large Field wherein to exercise their Pens: and though the Kings of *France* have not wanted store of wretched Flatterers, who have done their utmost to ascribe to 'em an Unjust and Tyrannick Power, never any one of 'em as yet could solidly make good his Opinion, nor answer effectually what has been written. The greatest part of the most Equal and Impartial Doctors have likewise always upheld, That it is not in the Power of Kings

* We find in the Regulations of Charlemaign, a Constitution very express upon this Subject. 'Twas the Will of that Emperor, and the King of France, that the People who were present at the States, should be demanded what they thought of the New Laws which they were about to add to the Old ones; and not only that they should Consent thereto, but set their Hands at the bottom, in Testimony, that without their Authentick Consent the Law was invalid.

to Declare War, and Levy Taxes, without the Consent of the States of the Kingdom, much less to abrogate their Municipal Laws, on purpose to subject em to their Will. You shall hear what the Chancellor *de l'Hospital* says, in his Speech concerning the Benefit of Assemblies of Estates. 'Tis the same that he pronounc'd in the Assembly of Estates at *Orleans*, in the Year 1561. Estates (says he) are assembl'd for divers Causes, and according to the present Occurrences and Occasions, or else for the Demanding Assistance of Men and Money, or to Regulate Justice, or to Declare War, or to Provide for the Means to Support it, or to Regulate the Order of Successions in the Apanages of the Sons of *France*, according to the Laws and Customs of the Places, and sometimes to know to whom the Crown of *France* belongs, as was to be seen after the Death of *Charles the Fair*, upon the Difference between *Philip de Valois*, and *Edward King of England*; in which Estates *Philip* did not preside, because he was a Party.

And a little higher, he says, To hold an Assembly of Estates, is for the King to Confer with his Subjects, to take their Advice and Counsel upon Affairs of Importance, and Resolve with their Concurrence upon what is most expedient to be done. This was anciently call'd *Holding a Parliament*; which Name is still retain'd in *England* and *Scotland*, where Affairs are handl'd after the same manner as they were wont to be in *France*.

In another part, he thus goes on. The last Estates were held at the Beginning of the Reign of *Charles VIII.* *Lewis XII.* his Successor, gave over holding Estates; nor did he ever assemble any, either General or Provincial; not by that means to enlarge his own Power, or for fear of giving too much Authority to his People, or out of any desire to Oppress em; for never was a more Popular King in the World: nor one that lov'd his Subjects better. For which Reason, after his Death, he was call'd the *Father of his People*. But because he was unwilling to put his People to Charges, and for that when he had Occasion, they were so Obedient, that he found there was no Occasion for Calling an Assembly. On the other side, he was careful to Protect and Preserve their Laws Privileges, and to Provide for their Necessities, without expecting their Addresses.

Now, we leave it to Judgment, whether the last Kings of *France* have pursu'd these Maxims; they who at this present talk no other Language, but, *We Will, and it is Our Pleasure*; and, *For such is Our Pleasure*; and whose glory in abridging and abrogating the Franchises of the Provinces under their Subjection; witness that of *Bretaign*, that of *Provence*, and particularly the City of *Marseilles*. But we need not a more remarkable Example then that which is reported by a certain Author of a New Voyage into the *Levant*. He says, That the King of *France* passing through the City of *Dijon*, the Mayor and Sheriffs brought him their Charters, and the Privileges of their Provinces, and of their City, beseeching him that he would vouchsafe to swear to observe em, as the Kings his Predecessors had oblig'd themselves to do, not only at their coming to the Crown, but also upon their first entrance into the City of *Dijon*. To whom Cardinal

Mazarine made Answer with a menacing Look, *Have you the Insolence to require your King to Swear?* Upon which they replying, That they requir'd nothing, only they besought and were in hopes of that Favour and Justice from the King's Goodness: the Cardinal retorted, *I see what you would be at; you would be a Free City, and a Republick: very good; I declare to yee, in the King's Name, That without swearing, he looks upon yee as such; but prepare your selves to be his Conquest within Four and twenty Hours.* This is call'd *Pulling off the Mask*: and after a Declaration so plain, it would be to no purpose to add any thing more.

Pretensions of the King of England to France.

Philip the Fair, King of France, had Three Sons, *Lewis Hutin*, or the *Mutinous*, *Philip the Long*, and *Charles the Fair*; who succeeded one after the other, and dy'd all Three without Issue. He had also a Daughter nam'd *Margaret*, who was marry'd to King *Edward I.* of England, who had *Edward II.* the Father of *Edward III.* who laid Claim to the Crown of France, as Heir in Right of his Grandmother *Margaret*. On the other side, *Philip de Valois*, as First Prince of the Blood, disputed the Right of Succession with him; and the Ballance proving Equal between these Two Princes, the Estates assembled at *Genlis*, to decide the Difference. The Question was a long time toss'd to and fro, and hotly debated; till at length the French, who were willing to have a King of their own Nation, suffer'd themselves to be over-rul'd by the Bishop of *Beauvais*, who cry'd out as if he had been inspir'd, *Behold the Lillies of the Field, that neither mark nor spin*, (as we have already observ'd in another Place.) Upon which, he took an Occasion to make a long Sermon, wherein he maintain'd, with a great deal of Heat, that that same Passage of the Holy Scripture was to be look'd upon as a Manifestation of the Will of God, which decided the Dispute in Favour of France. Moreover, he grounded his Opinion upon the Constitutions of the *Sabick Law*; upon which he strongly insisted, and quoted the first time that ever it was cited, the Article that excludes the Female Sex. That Law, of which they never had any Knowledge till then, so highly pleas'd the French, that it was receiv'd with Applause by all the Nation, not only because they found it confirm'd by the Verse of the Gospel, but chiefly, for that the greatest part sought only a plausible Pretence to exclude *Edward*, and follow their Natural Inclinations. *Philip* then was unanimously Proclaim'd in the said Assembly; and the King of England, who was come thither to make good his Claim, was forc'd to brook the Disgrace of seeing himself rejected, without daring to complain, as being in the Hands of his Comperitor, who would have been glad of a Pretence to have secur'd him, for the preventing a War which he foresaw inevitable. But not daring to do it without some apparent Reason, he oblig'd him, however, to go to *Paris*, and do him Homage in Person, for the Provinces of *Guienne*, *Languedoc*, and *Poitou*; which was done with the greatest Magnificence that could be, to extenuate, in some measure, the Vassalage of the Action. Nevertheless, the Vexation for having appear'd

appear'd in sight of the whole Court of *France*, upon his Knees, and Bare-headed, before a Chancellor, and promis'd Fealty to a Prince that he expected should have been his Subject, rais'd his Fury to that height, that from that day forward he vow'd to his own People, That so soon as he got home, he would take Arms, and never lay em down, till he had made himself Master of *France*. In a word, he was no sooner return'd to *London*, but he quarter'd the Arms of *France* with those of *England*, levy'd a Powerful Army, and march'd against *Philip*, assisted by the Flemings who took his Part. And this War prov'd successful to him; for he vanquish'd *Philip* in several Encounters, more-especially at the Battle of *Crecy*, and at several times kill'd him above a Hunder'd and fifty thousand Men, among which were a great number of the Nobility of the Kingdom; after which, he took *Calais*, which the English held from that time till the Reign of Queen *Mary*. Nor was this all; for King *John*, the Son of *Philip*, succeeding his Father, and marching against *Edward*, surnam'd the *Black Prince*, the Son of *Edward III.* to revenge his Father's Losses, was himself overthrown with a great slaughter of the French Nobility, and the loss of his own Liberty, being carry'd first to *Bordeaux*, then belonging to the English; and from thence into *England*: from whence he was releas'd, after six Years being detain'd, upon delivery of Hostages; for the discharge of which, returning into *England*, he dy'd at *London*. So that there being no Covenants nor Compacts for Settlement of Matters, the King of *England* continu'd his Claim; which was afterwards renew'd by *Henry V.* who, after he had made a clearer Conquest of *France*, marry'd *Catherine* the Daughter of *Charles VI.* upon Condition, That after the Death of his Father-in-Law, he should succeed to the Crown, to the Exclusion of *Charles* the Dauphin of *France*, who was only to have the Province of *Berri* for his share: which was not only covenanted in the Contract; but approv'd, by particular Acts of Parliament, the Princes of the Blood, and Grandees of the Kingdom. In short, so long as he liv'd, he govern'd *France*, as Absolute Sovereign; and after his Death, *Henry VI.* his Son, was Proclaim'd and Crown'd King of *France*, in *Paris*, while *Charles* lay quiet at *Bourges*, in the Arms of his Mistresses. But at length, Fortune, in her Turn, favouring the French, the English lost all their footing in *France*, except *Calais*. However, upon the prosperous Successes of the Two Claimers, *Edward III.* and *Henry V.* the Kings of *England* have ever since quarter'd the Flower-de-Luces in their Arms; so far from derogating from their Claims by any succeeding Treaties, that to this day they assume the Title of *Kings of France*.

*Enquiries into the Pretensions of the King of England
to France.*

They are grounded (as we have made it appear) upon Two Rights. The First is, The Marriage of the King of *England* with *Margaret of France*, the Daughter of *Philip the Fair*. The Second is, Another Marriage with *Catherine* the Daughter of *Charles VI.* King of *France*. As to the Second, we do not believe that of it self it is of any Force, were it not made Authentick by the First. For in short, it is beyond all Controversie, that *Charles VI.* who by some is call'd *The Idiot*, by others, *The Mad-man*, had not the Power, nor any Right to deprive his Son of the Lawful Succession which by Nature and Blood were due to him, to make way for a Foreigner: and if the Parliament, and Grandees of the Kingdom approv'd the Disinheriting of the Prince, the Dauphin, who never gave his Consent, might justly tax em of Rebellion and Infidelity to their Lawful Sovereign. Which being taken for granted, it would be in vain for the King of *England* afterwards to alledge Possession, and the Coronation of his Son at *Paris*.

But in regard that Marriage may be look'd upon as a Consequence of the former, and for that the Covenants agreed to between *Charles*, and *Isabel* his Wife, with *Henry V.* as also the Approbations and Verifications of the Parliament, may be taken for Acts of that Restitution which Justice absolutely demanded from em, to the Exclusion of their own Sons, and may be said to proceed from their certain knowledge, and there being convinc'd that the Crown belong'd to the Kings of *England*, in Right of *Margaret* the Daughter of *Philip the Fair*, it only remains to examin whether that Princess could legally pretend to succeed her Father in the Sovereignty. If you will believe the Bishop of *Beauvais*, with his *Lilia neque laborant neque nent*, 'tis certainly not to be permitted. But in regard that Sentence is of too fresh a date, in reference to the Point in dispute, though the Kings of *France* found it convenient for their Turn, yet we think it much the safer course to stick close to the Ancient and Fundamental Laws. I know the French will presently fly for Succour to the Salique Law; but, we have said so much already concerning the Uncertainty, and consequently the Insufficiency of that Law, and how much the Learned are divided in their Opinions about it; the greatest part agreeing, That neither Inalienation, nor the Exclusion of Females were heard of, or ever mention'd before the Contest between *Edward* and *Philip*, that the King of *England* may be very well allow'd to justify and prosecute his Claim; which is so much the more Authentick at this day, because there has never been any Prescription against it: so far from any such thing, that their Claims have been renew'd by frequent Instances and Protestations, confirm'd by Acts of *Charles VI.* and his Parliament, and a Coronation of the King of *England* in *Paris*.

Pretensions of the King of England to Normandy.

William, by some firnam'd *The Conqueror*, was the Natural Son of *Robert Duke of Normandy*, nor only Declar'd Heir to the Dukedom by his Father, but in like manner entitl'd to the Kingdom of *England* by *Edward the Confessor*, in pursuance of his Claim, landed in *England*, and having vanquish'd *Harold* that oppos'd him, fix'd himself in the Succession; which his Posterity for a long time enjoy'd, under the Titles of *Kings of England*, and *Dukes of Normandy*. From whence the Kings of *England* still derive their Title to *Normandy*.

Enquiries into the Pretensions of the King of England to Normandy.

NO Claims can be more solidly grounded than these. For *Normandy* was the Patrimony of *William I. King of England*; nor did he ever make any Renunciation of it either to the King of *France*, or any other Person whatever; nor did he ever enter into any Covenants to the Prejudice of his Title. So that though his Offspring were dispossest of it by the Kings of *France*, their Title still remain'd Legal and Just: and it was also acknowledg'd for such by *St. Lewis*, who, by the Confession of the French themselves, was so divinely inspir'd, in a Treaty which he concluded with the King of *England*, before he set forward for *Africa*. But how Just so ever this Title might be in its Original, there is a long Prescription that oppos'd and very much weakens the Strength and Vigour of it. However, upon a fair Occasion given, there still remains the Justice of a Dormant Title to justify the Possession of it upon a new Seizure.

Pretensions of the King of England to Guienne, Poitou, and Languedoc.

THESE Provinces fell to the Crown of *France* by the Marriage of *Lewis VI.* with *Eleanor*, the Daughter of *Raymond Count of Toulouse*, who was the Lord of 'em: and because that in his Expedition to the *Holy Land*, (for he took her along with him,) he had some Reasons to be ill satisfy'd with her Behaviour, more especially upon a Suspicion that she had been free of her last Favours to *Saladin Prince of Egypt*, who was his Prisoner, he Divorc'd her upon his Return to *France*, upon Pretence of being too nearly related in the Degrees of Spiritual Consanguinity, as having been God-father and God-mother at the same time to one and the same Child. This trivial Cause being judg'd sufficient by the Council of *Boisgenci*, their Marriage was Dissolv'd; and Queen *Eleanor* taking her Dowry

Dowry along with her, and having re-assum'd her Inheritances, translated 'em to the King of *England*: who not being so scrupulous, marry'd her, and by that Marriage obtain'd the Possession for himself and his Heirs, doing Homage to the Crown of *France*. However, by reason of the continual Wars that happen'd between the Most Christian Kings and Them, they often lost 'em; and as often regain'd 'em, sometimes by Force of Arms, and sometimes by Treaties, among which, the Contract of *Margaret* the Daughter of *Philip the Fair* is the Strongest and most Authentick: because that besides the Right which she brought to the Crown, *Guienne*, *Languedoc*, and *Poitou*, were particularly resign'd to the King her Husband.

*Enquiries into the Pretensions of the King of England to
Guienne, Languedoc, and Poitou.*

WE have no other Reflexions to make upon these Pretensions, than what we have already observ'd in the preceding Chapter. All these Titles are very good; only they are a little too far superannuated to be the lawful Occasion of a War. But if in the Revolution that is already begun, the King of *England* should find an Opportunity once more to seize upon his Own, there is no legal Obstacle that can hinder him.

THE END